

**WEST LIBERTY UNIVERSITY  
BOARD OF GOVERNORS**

**May 23, 2012**

**8:30 a.m.**

**Liberty Oaks Conference Room  
WLU**

**AGENDA**

1. Call to Order
2. Chairperson Comments
3. Action Items\*:
  - a. Bond Resolution of the Board of Governors..... 10 Min
  - b. WesBanco Commitment Letter ..... 10 Min
  - c. Educational and General Capital Fee Resolution..... 10 Min
4. Information Item:
  - a. Trust Indenture
5. Adjournment

**RESOLUTION OF THE WEST LIBERTY UNIVERSITY  
BOARD OF GOVERNORS**

**RESOLUTION AUTHORIZING THE FINANCING OF CERTAIN CAPITAL IMPROVEMENTS; AUTHORIZING THE FINANCING OF THE COSTS OF SUCH CAPITAL IMPROVEMENTS AND RELATED EXPENSES THROUGH THE ISSUANCE BY THE WEST LIBERTY UNIVERSITY BOARD OF GOVERNORS OF ITS UNIVERSITY REVENUE BONDS, SERIES 2012 (THE "BONDS") IN THE AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN \$10,000,000; AUTHORIZING THE EXECUTION OF A TRUST INDENTURE WITH RESPECT TO THE BONDS; AUTHORIZING THE SALE OF THE BONDS TO WESBANCO BANK, INC. PURSUANT TO A COMMITMENT LETTER WITH RESPECT TO THE BONDS AND THE EXECUTION AND DELIVERY OF SUCH COMMITMENT LETTER; AUTHORIZING THE EXECUTION AND DELIVERY OF OTHER DOCUMENTS AND AGREEMENTS IN CONNECTION WITH THE BONDS, INCLUDING BUT NOT LIMITED TO A TAX CERTIFICATE; APPOINTING A TRUSTEE FOR THE BONDS; DELEGATING TO THE PRESIDENT AND THE CHIEF FINANCIAL OFFICER OF WEST LIBERTY UNIVERSITY AND THE CHAIRMAN AND VICE-CHAIRMAN OF THE WEST LIBERTY UNIVERSITY BOARD OF GOVERNORS CERTAIN RESPONSIBILITIES IN CONNECTION WITH THE SALE AND ISSUANCE OF THE BONDS AND THE INVESTMENT OF BOND PROCEEDS; AND TAKING OTHER ACTIONS IN CONNECTION WITH THE SALE AND ISSUANCE OF THE BONDS**

**WHEREAS**, the Board of Governors of West Liberty University (the "Board") has determined that it is necessary and desirable to issue a series of revenue bonds (the "Bonds") for the purpose of financing certain capital improvement projects (the "Projects") as may be determined by an Authorized Representative (as defined herein) and listed in Exhibit A hereto and to pay costs of issuance of the Bonds and related costs; and

**WHEREAS**, the Projects are contained in the University's approved campus development plan; and

**WHEREAS**, the Board has determined to issue the Bonds as tax-exempt obligations in an aggregate principal amount of not to exceed \$10,000,000 under a Bond Indenture between the Board and Wesbanco Bank, Inc., as Trustee, (the "Indenture"); and

**WHEREAS**, pursuant to Chapter 18B, Article 2A of the West Virginia Code of 1931, as amended (the "Issuer Enabling Act"), the Legislature of the State of West Virginia created the Board to serve as the governing board for the University commencing July 1, 2001 and to assume control, supervision and management of the financial, business and education policies and affairs of the state institutions of higher education under its jurisdiction; and

**WHEREAS**, pursuant to West Virginia Code Section 18B-10-8 (the "Enabling Act" and collectively with the Issuer Enabling Act the "Act"), the Board is authorized to issue revenue bonds of the State for financing (1) the acquisition of land or any rights or interest in land; (2) the

construction or acquisition of new buildings; (3) the renovation or construction of additions to existing buildings; (4) the acquisition of furnishings and equipment for the buildings; and (5) the construction or acquisition of any other capital improvements or capital education facilities at the University, including any roads, utilities or other properties, real or personal, or for other purposes necessary, appurtenant or incidental to the construction, acquisition, financing and placing in operation of the buildings, capital improvements or capital education facilities, including student unions, dormitories, housing facilities, food service facilities, motor vehicle parking facilities and athletic facilities; and

**WHEREAS**, pursuant to West Virginia Code Section 18B-10-8 the approval of the West Virginia Higher Education Policy Commission (the "Commission") is required prior to the issuance of any revenue bonds by the Board; and

**WHEREAS**, the principal of and interest on the Bonds will be payable and secured by revenue from a \$200 per semester per student capital fee imposed by the Board prior to the adoption of this resolution (the "2012 Capital Fee") and other sources of revenue specified in the Indenture (collectively, the "Revenues") and otherwise in the manner and to the extent provided for in the Indenture and shall be special obligations of the State of West Virginia (the "State") and shall not constitute debts of the State; and

**WHEREAS**, it is in the best interest of this Board to grant to the President and the Chief Financial Officer of the University and the Chairman and the Vice-Chairman of the Board, acting together or individually (each, an "Authorized Officer"), the power and authority to establish the final terms and provisions of and execute the Bonds, the Indenture and the Commitment Letter (the "Commitment Letter") between the Board and Wesbanco Bank, Inc. (the "Purchaser"); and

**WHEREAS**, this Board finds and represents that it has full power and authority to issue the Bonds and to make the respective pledges for the payment thereof as will be set forth in the Indenture and the Bonds, and to execute and deliver the Indenture and such other documents hereinafter described and, on behalf of the owners of the Bonds, to grant a lien on and security interest in the Revenues and other sources of revenue and funds described in the Indenture, as permitted under the Act, and to execute and deliver such other documents and to take the actions contemplated thereby.

**NOW, THEREFORE, BE IT RESOLVED BY THE WEST LIBERTY UNIVERSITY BOARD OF GOVERNORS, AS FOLLOWS:**

**Section 1. Findings and Determinations.** This Board specifically finds and determines as follows:

(a) It has full power and authority to issue the Bonds and to make the respective pledges for the payment thereof as are described in the recitals hereto and more particularly set forth in the Indenture, and to enter into the Indenture and the other agreements relating to the Bonds and the Projects, and this Board has taken or will take by the adoption of this Resolution all actions

necessary to authorize its proper officers to sign, seal and deliver the Indenture, the Commitment Letter, the Bonds and the other agreements relating thereto.

(b) This Resolution is adopted pursuant to and in accordance with the provisions of the Act, and the Bonds shall be issued pursuant to and in accordance with the Act.

(c) The Purchaser is hereby approved as the purchaser of the Bonds. The Authorized Officers are hereby authorized and directed, upon advice of counsel, to enter into the Commitment Letter with the Purchaser.

(d) Steptoe & Johnson PLLC ("Bond Counsel") is hereby appointed as bond counsel for the Bonds. It is understood by the Board that Bond Counsel will be compensated only from the proceeds of the Bonds.

(e) The form of the Indenture as attached hereto as Exhibit B is hereby approved with such insertions and deletions as may be approved by an Authorized Officer.

**Section 2. The Bonds.** There is hereby authorized to be issued and the Board hereby determines to issue, pursuant to the Act, its Bonds in one series, in an aggregate principal amount not to exceed \$10,000,000 and to expend all of the proceeds to finance the costs of the Projects and of related expenses, including but not limited to all costs incurred in connection with the issuance of the Bonds, such Bonds to be secured by and payable exclusively from the respective Revenues and funds pledged under the Indenture. The Bonds shall contain a recital that they are issued pursuant to the Act or other applicable provisions of state law, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

**Section 3. Indenture, Commitment Letter and Tax Certificate.** It is anticipated that the Indenture, Commitment Letter and a Tax Certificate shall be prepared, delivered and executed in connection with the issuance of the Bonds (all of the foregoing documents, except the Bonds, are hereinafter collectively referred to as the "Bond Documents"). The Authorized Officers, with the assistance of counsel, are authorized to negotiate and approve the form and content of the Bond Documents under such terms and conditions as are, in the opinion of such Officers, in the best interests of the Board and the State. The Authorized Officers are hereby authorized, empowered and directed to execute and deliver the Bond Documents prior to or simultaneously with the issuance of the Bonds for and on behalf of the Board, in the form and upon those terms and conditions as approved by the Authorized Officers, with assistance of counsel, and such approval shall be conclusively evidenced by the execution of the Bond Documents by an Authorized Officer.

**Section 4. Terms of Bonds.** The Bonds shall be dated the date of their initial issuance and shall mature on November 1 of the years set forth below, shall be in the principal amounts and shall bear interest on each Interest Payment Date at the rates per annum, all as set forth below:

<u>Year of Maturity</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2019	\$4,000,000	2.00%
2023	3,000,000	2.75%
2027	3,000,000	3.25%

In the event of the occurrence of an Event of Default (as defined in the Indenture) the interest rates on the Series 2012 Bonds shall be increased by 2.00% during such the period that an Event of Default is continuing.

The Bonds maturing on November 1, 2019, November 1, 2023 and November 1, 2027, shall initially be issued as term bonds, and are subject to mandatory redemption prior to maturity in part from moneys on deposit in the Bond Fund (as defined in the Indenture) at a redemption price equal to 100% of the principal amount thereof, plus accrued interest to the Mandatory Redemption Date (as defined in the Indenture), in the years and in the annual principal amounts as follows:

Bond maturing November 1, 2019:

<u>Year</u> <u>(November 1)</u>	<u>Amount</u>
2013	\$ 720,000
2014	585,000
2015	595,000
2016	610,000
2017	620,000
2018	630,000
(Maturity2019)	240,000

Bond maturing November 1, 2023:

<u>Year</u> <u>(November 1)</u>	<u>Amount</u>
2019	\$ 405,000
2020	660,000
2021	680,000
2022	695,000
(Maturity2023)	560,000

Bond maturing November 1, 2027:

<u>Year</u> <u>(November 1)</u>	<u>Amount</u>
2023	\$ 155,000

2024	735,000
2025	760,000
2026	785,000
(Maturity2027)	565,000

The principal amount of the Bonds delivered to or purchased by the Trustee shall reduce by such amount the principal amount of Bonds to be redeemed on the Mandatory Redemption Date with respect to such maturity next following such delivery or purchase.

The Bonds are subject to optional redemption prior to maturity at any time upon not less than thirty (30) days prior written notice. The purchase price in the event of such optional redemption shall be equal to 100% of the principal amount thereof, plus accrued interest to the optional redemption date.

In the event of the occurrence of an Event of Default (as defined in the Indenture) the interest rates on the Bonds during such period that an Event of Default is continuing shall increase by 2.00% each.

The Bonds shall have such other terms as are set forth in the Indenture a copy of which is attached hereto as Exhibit B and incorporated herein by reference. The Bonds shall be in the denominations and in registered form, be payable in the medium of payment and at such places and be entitled to the priorities and Revenues, other sources of revenues and funds, all as provided in the Indenture.

**Section 5. Trustee.** Wesbanco Bank, Inc. is appointed by the Board to serve as Trustee under the Indenture.

**Section 6. Sale of the Bonds.** The Bonds shall be sold to the Purchaser pursuant to the Commitment Letter for \$10,000,000 and upon the terms set forth in the Commitment Letter. The Authorized Officers are hereby authorized and directed to execute the Commitment Letter with such changes, insertions and omissions as may be approved by the Authorized Officer, his or her execution thereof to be conclusive evidence of such approval.

**Section 7. Bonds Are Special Obligations.** The Bonds are special obligations of the Board payable solely from and secured by the Revenues and funds pledged under the Indenture. The Bonds, together with the interest thereon, are a special obligation of the State and shall not constitute a debt or general obligation of the State, and the credit or taxing power of the State shall not be pledged therefor, but the Bonds shall be payable only from the Revenues (which shall include the 2012 Capital Fee) and funds pledged for their payment as provided in the Indenture. No recourse shall be had for the payment of the principal of or interest on the Bonds or for any claim based thereon, on this Resolution or on any of the documents executed in connection therewith, including but not limited to the Bonds and the Bond Documents, against any official, member, officer or employee of this Board, the University or the State or any person executing the Bonds, and neither members of this Board nor any person executing the Bonds shall be liable personally on the Bonds by reason of the issuance thereof. The Authorized

Officers shall execute such pledges and other security agreements as are necessary to perfect the security interest in the Revenues for the benefit of the Holders of the Bonds.

**Section 8. Personal Liability.** None of the present or future employees, officers or board members of the Board or the University, or any person executing the Bonds or the Bond Documents relating thereto shall be personally liable for the Bonds or any other obligation relating to the issuance of such Bonds, or be subject to any personal liability by reason of the issuance of the Bonds.

**Section 9. Formal Actions.** The Board hereby finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of the Board, and that all deliberations of the Board which resulted in formal action, were meetings open to the public, in full compliance with all applicable legal requirements.

**Section 10. Additional/Incidental Actions.** The Authorized Officers are hereby authorized and directed to seek the required approval of the Commission for the issuance of the Bonds and to execute and deliver such other documents, agreements, instruments and certificates and to take such other action as may be necessary or appropriate in order to effectuate the execution, delivery and/or receipt of the Indenture, the Commitment Letter, the issuance and sale of the Bonds and the investment of the Bond proceeds, and for carrying out the transactions contemplated therein, all in accordance with the Act and other applicable provisions of the Code of West Virginia of 1931, as amended. The execution, delivery and due performance of the Bond Documents and all documents and instruments required in connection therewith are hereby in all respects approved, authorized, ratified and confirmed, including any and all acts heretofore taken in connection with the issuance of the Bonds.

**Section 11. Effective Date.** This Resolution shall take effect immediately upon its adoption, and all prior resolutions or parts thereof inconsistent herewith are hereby repealed.

Adopted this 23rd day of May, 2012.

### CERTIFICATION

The undersigned, being the duly qualified, elected and acting Secretary of the Board of Governors of West Liberty University does hereby certify that the foregoing Resolution was duly adopted by the members of the Board at a special meeting duly held, pursuant to proper notice thereof, on May 23rd, 2012, at West Liberty, West Virginia, a quorum being present and acting throughout, and which Resolution is a true, correct and complete copy thereof as witness my hand this \_\_\_\_ day of May, 2012.

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Secretary, Board of Governors of West Liberty University



## **EXHIBIT A**

### **PROJECT LIST**

- (1) The design, construction and equipping of a new Health Science building;
- (2) The renovation of biology labs/classrooms and ADA compliance improvements at Arnett Hall;
- (3) Renovation and equipping of Main Hall into areas for Business and Education expansion, as well as new programs, including Americans with Disabilities Act compliance improvements;
- (4) The design, construction and equipping of a new wing on the Issuer's Media Arts Center; and
- (5) Such other capital projects as may be approved by the Board of the Issuer from time to time.

**EXHIBIT B**

**FORM OF INDENTURE**



May 14, 2012

Board of Governors of West Liberty University  
Attention: John E. Wright, III, Executive Vice President/CFO  
Attention: Stephanie Hooper, Controller  
208 University Drive  
West Liberty, WV 26074

Dear Mr. Wright and Ms. Hooper:

Please be advised that, subject to the terms and conditions set forth below, WesBanco Bank, Inc. (the "Bank") has approved the purchase of Tax-Exempt bond or bonds to be issued by or on behalf of the Board of Governors of West Liberty University (the "Applicant") up to the maximum amount of Ten Million Dollars (\$10,000,000.00) to construct and equip the applicant's new Health Sciences Building and to use any excess proceeds for other capital improvements at the University. The bond or bonds to be purchased must conform to the following terms conditions:

**BOND A:** Not to exceed Four Million Dollars (\$4,000,000.00).

**BOND B:** Not to exceed Three Million Dollars (\$3,000,000.00).

**BOND C:** Not to exceed Three Million Dollars (\$3,000,000.00).

(BOND A, BOND B and BOND C shall hereinafter be collectively referred to as "Bonds")

This preliminary approval is contingent upon compliance with all the terms and conditions as outlined below.

Approval. This approval is based upon and shall remain contingent upon the continued validity and accuracy, without adverse material change, of all of the information and material submitted to the Bank by the Applicant in connection with the application for the Bonds.

Expiration. This commitment will expire thirty (30) days from the date herein, unless that time is extended in writing by the Bank, or upon the Applicant's earlier written notification to the Bank that the Applicant does not desire to obtain the Bonds.

Term.

**BOND A** The BOND A Bonds shall be mature on November 1, 2019.

**BOND B** The BOND B Bonds shall be mature on November 1, 2023.

**BOND C** The BOND C Bonds shall be mature on November 1, 2027.

**BONDS** The Bonds shall be repaid in annual payments of principal and interest in the aggregate amount of approximately \$830,000 as shown on the debt service schedule attached hereto. Interest shall be applied to the accrued, outstanding interest on each Bond. The remaining principal shall then be applied to BOND A until paid in full, then to BOND B and lastly to BOND C.

WesBanco Bank, Inc.  
1 Bank Plaza  
Wheeling, WV 26003-3565  
(304) 234-9000

Interest Rate.

<b>BOND A</b>	BOND A Bonds shall bear interest at the fixed rate equal to 2.00% per annum.
<b>BOND B</b>	BOND B Bonds shall bear interest at fixed rate equal to 2.75% per annum.
<b>BOND C</b>	BOND C Bonds shall bear interest at fixed rate equal to 3.25% per annum.

Redemption.

The Bonds are subject to optional redemption at any time without penalty.

Fees.

**BONDS**

The Applicant agrees to pay a transaction fee in the amount of Twenty-five Thousand Dollars (\$25,000.00) due at closing.

The Applicant also agrees to reimburse the Bank for all of the transaction related expenses, including legal expenses incurred by it in conjunction with this transaction, whether or not it actually closes.

The Bank's total fees for the transaction, exclusive of bond counsel fees, will not exceed Thirty Thousand Dollars (\$30,000.00).

Collateral.

**BONDS**

An assignment of and security interest in the Applicant's revenues consisting of the student fees designated as the Student Capital Fee of \$200 per student per semester (hereinafter "Capital Fee").

Conditions.

- (a) The Applicant and the Bank shall enter into documents prepared by the law firm of Steptoe & Johnson LLP, acceptable to the Bank and its legal counsel.
- (b) The Applicant shall provide the Bank with opinions of counsel issued by attorneys acceptable to the Bank certifying that the liens created by the transactions shall be in the priorities specified on the property identified in the Collateral section of this commitment letter, and on such other aspects of the Bond transaction as the Bank may reasonably require.
- (c) The Applicant agrees that should a default exist, including failure to pay the Bonds upon final maturity, the interest rate on the Bonds shall be increased by adding a 2.000 percentage point margin ("Default Rate Margin"). The Default Rate Margin shall also apply to each succeeding interest rate change that would have applied had there been no default.




Conditions (cont.)

- (d) The Applicant shall provide the Bank with opinions of counsel issued by Steptoe & Johnson opining that interest on the Bonds is excludable from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended, and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations and that the interest income is also exempt from all State income taxes.
- (e) The Applicant shall provide the Bank with an opinion of counsel for the Applicant as to the authority of the Applicant under applicable law and regulation to implement the new Capital Fee and to assign and pledge such Capital Fees to repayment of the Bonds.
- (f) The Applicant will provide to the Bank annually an income statement and balance sheet audited by a certified public accountant, including all exhibits and schedules attached thereto for the duration of the Bonds.
- (g) Subject to the condition that the Applicant shall agree to maintain the Capital Fee for such period of time as is necessary to fully amortize the Bonds within the terms hereinabove specified.

This Bond Purchase Transaction shall be made by **WesBanco Bank, Inc.** only upon all of the terms and conditions set forth above. If this offer is accepted by Applicant, subject to all of the above terms and conditions, please execute this letter and return it to **WesBanco Bank, Inc.** no later than thirty (30) days from the date herein. If the acceptance of this is not received by **WesBanco Bank, Inc.** by that date, it is void.

Sincerely,



David Pell  
Senior Vice President

DP/bam

Board of Governors of West Liberty University  
May 14, 2012  
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**ACCEPTED BY:**

**BOARD OF GOVERNORS OF WEST LIBERTY UNIVERSITY**

**By:** \_\_\_\_\_

**Its:** \_\_\_\_\_

**By:** \_\_\_\_\_

**Its:** \_\_\_\_\_

**PLEASE RETURN ONE (1) EXECUTED ORIGINAL TO WESBANCO BANK, INC. AND  
RETAIN THE OTHER FOR YOUR RECORDS.**

**RESOLUTION OF THE WEST LIBERTY UNIVERSITY  
BOARD OF GOVERNORS**

**RESOLUTION APPROVING THE IMPOSITION OF A \$200 PER SEMESTER  
REQUIRED EDUCATIONAL AND GENERAL CAPITAL FEE ON ALL FULL-TIME  
STUDENTS AND A PROPORTIONATE REQUIRED EDUCATIONAL AND GENERAL  
CAPITAL FEE FOR PART-TIME STUDENTS AND SUMMER SCHOOL STUDENTS**

**WHEREAS**, pursuant to Chapter 18B, Article 10, Sections 1 and 8 of the West Virginia Code of 1931, as amended (collectively, the "Act") the Board of Governors of West Liberty University (the "Board") has the authority to fix required educational and general capital fees for full-time students at West Liberty University (the "University") per semester and to impose and collect such required educational and general capital fees upon all part-time students and summer school students in proportion to, but not exceeding, the fees paid by full-time students; and

**WHEREAS**, this Board has determined that it is appropriate to impose a \$200 semester required educational and general capital fee (the "Capital Fee") upon all of the University's full-time students beginning with the spring semester of calendar year 2013 and continuing thereafter until such fee is terminated by the Board; and

**WHEREAS**, this Board has further determined that the Capital Fee shall be imposed upon all of the University's part-time students and summer school students in proportion to, but not exceeding, the fees paid by full-time students; and

**WHEREAS**, the Board has determined that such Capital Fee shall be used to fund on a cash basis or to pay the debt service on revenue bonds issued by the Board for the purpose of financing (1) the acquisition of land or any rights or interest in land; (2) the construction or acquisition of new buildings; (3) the renovation or construction of additions to existing buildings; (4) the acquisition of furnishings and equipment for the buildings; and (5) the construction or acquisition of any other capital improvements or capital education facilities at the University, including any roads, utilities or other properties, real or personal, or for other purposes necessary, appurtenant or incidental to the construction, acquisition, financing and placing in operation of the buildings, capital improvements or capital education facilities.

**NOW, THEREFORE, BE IT RESOLVED BY THE WEST LIBERTY  
UNIVERSITY BOARD OF GOVERNORS, AS FOLLOWS:**

**Section 1. Findings and Determinations.** This Board specifically finds and determines as follows:

(a) It has full power and authority to impose and collect the Capital Fee.

(b) This Resolution is adopted pursuant to and in accordance with the provisions of the Act, and the Capital Fee shall be imposed and collected pursuant to and in accordance with the Act.

(c) The Capital Fee shall continue in place until terminated by the Board, but in no event shall such termination occur so long as bonds are outstanding which are secured by the Capital Fee, in whole or in part.

(d) The Capital Fee shall be used to fund on a cash basis or to pay the debt service on revenue bonds issued by the Board for the purpose of financing (1) the acquisition of land or any rights or interest in land; (2) the construction or acquisition of new buildings; (3) the renovation or construction of additions to existing buildings; (4) the acquisition of furnishings and equipment for the buildings; and (5) the construction or acquisition of any other capital improvements or capital education facilities at the University, including any roads, utilities or other properties, real or personal, or for other purposes necessary, appurtenant or incidental to the construction, acquisition, financing and placing in operation of the buildings, capital improvements or capital education facilities.

**Section 2. The Capital Fee.** The Board imposes the “Capital Fee” upon all of the University’s full-time students beginning with the spring semester of calendar year 2013 and continuing thereafter until such fee is terminated by the Board. The Board also hereby imposes the Capital Fee upon all of the University’s part-time students and summer school students in proportion to, but not exceeding, the Capital Fee paid by full-time students.

**Section 3. Formal Actions.** The Board finds and determines that all formal actions relative to the adoption of this Resolution were taken in an open meeting of the Board, and that all deliberations of the Board which resulted in formal action, were meetings open to the public, in full compliance with all applicable legal requirements.

**Section 4. Additional/Incidental Actions.** The University’s authorized officers are hereby authorized and directed to execute and deliver such other documents, agreements, instruments and certificates and to take such other action as may be necessary or appropriate in order to effectuate the imposition and collection of the Capital Fee.

**Section 5. Effective Date.** This Resolution shall take effect immediately upon its adoption, and all prior resolutions or parts thereof inconsistent herewith are hereby repealed.

Adopted this 23rd day of May, 2012.



### CERTIFICATION

The undersigned, being the duly qualified, elected and acting Secretary of the Board of Governors of West Liberty University does hereby certify that the foregoing Resolution was duly adopted by the members of the Board at a special meeting duly held, pursuant to proper notice thereof, on May 23, 2012, at West Liberty, West Virginia, a quorum being present and acting throughout, and which Resolution is a true, correct and complete copy thereof as witness my hand this \_\_\_\_ day of May, 2012.

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Secretary, Board of Governors of West Liberty University

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TRUST INDENTURE

By and between

BOARD OF GOVERNORS OF WEST LIBERTY UNIVERSITY

and

WESBANCO BANK, INC.  
As Trustee

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Dated as of May 1, 2012

\$10,000,000  
Board of Governors of West Liberty University  
University Revenue Bonds, Series 2012

## TRUST INDENTURE

THIS TRUST INDENTURE (the "Indenture") dated as of May 1, 2012, by and between the BOARD OF GOVERNORS OF WEST LIBERTY UNIVERSITY (the "Issuer"), a body corporate created under the laws of the State of West Virginia, acting for and on behalf of West Liberty University (the "University"), and WESBANCO BANK, INC., a West Virginia state banking corporation with trust powers and with its principal office in the City of Wheeling, Ohio County, West Virginia, as trustee (the "Trustee").

WHEREAS, pursuant to Chapter 18B, Article 2A of the West Virginia Code of 1931, as amended (the "Issuer Enabling Act"), the Legislature of the State of West Virginia created the Issuer to serve as the governing board for the University commencing July 1, 2001 and to assume control, supervision and management of the financial, business and education policies and affairs of the state institutions of higher education under its jurisdiction;

WHEREAS, pursuant to Chapter 18B, Article 10, Sections 8 and 13 of the West Virginia Code of 1931, as amended (collectively, the "Enabling Act"), the Issuer is authorized to issue revenue bonds of the State for financing (1) the acquisition of land or any rights or interest in land; (2) the construction or acquisition of new buildings; (3) the renovation or construction of additions to existing buildings; (4) the acquisition of furnishings and equipment for the buildings; and (5) the construction or acquisition of any other capital improvements or capital education facilities at the University, including any roads, utilities or other properties, real or personal, or for other purposes necessary, appurtenant or incidental to the construction, acquisition, financing and placing in operation of the buildings, capital improvements or capital education facilities, including student unions, dormitories, housing facilities, food service facilities, motor vehicle parking facilities and athletic facilities;

WHEREAS, the Issuer has determined that it is necessary and desirable to issue a series of revenue bonds (the "Series 2012 Bonds") for the purpose of financing the Series 2012 Projects as defined herein and to pay Costs of Issuance and related costs; and has further determined that the Series 2012 Bonds be payable from and secured by a first lien on and pledge of the funds described herein, subject to the terms, conditions, limitations and restrictions herein contained;

WHEREAS, the Issuer has authorized and approved the issuance of the Series 2012 Bonds to finance the Series 2012 Projects pursuant to a resolution of the Issuer, duly adopted on May 23, 2012 (the "Issuer Resolution");

WHEREAS, pursuant to West Virginia Code Section 18B-10-8 the approval of the West Virginia Higher Education Policy Commission (the "Commission") is required prior to the issuance of any revenue bonds by the Issuer;

WHEREAS, the Commission has authorized and approved the issuance of the Series 2012 Bonds pursuant to a resolution of the Commission, duly adopted on May \_\_, 2012;

WHEREAS, all things necessary to make the Series 2012 Bonds, when authenticated by the Trustee and issued as in this Indenture provided, the valid, binding and legal obligations of the Issuer according to the import thereof, and to constitute this Indenture a valid assignment and pledge of the amounts pledged to the payment of principal of and interest on the Series 2012 Bonds, and a valid grant of a security interest in the funds and accounts described herein and in the proceeds thereof, and the creation, execution and delivery of this Indenture, which shall also be deemed to be a security agreement, and the creation, execution and issuance of the Series 2012 Bonds, subject to the terms hereof, have in all respects been duly authorized;

NOW, THEREFORE, THIS INDENTURE WITNESSETH:

#### GRANTING CLAUSES

The Issuer in consideration of the premises and the acceptance by the Trustee of the trusts hereby created and of the purchase and acceptance of the Series 2012 Bonds by the holders and owners thereof, and for other good and valuable consideration, the receipt of which is hereby acknowledged, in order to secure the payment of the principal of and interest on the Series 2012 Bonds according to their tenor and effect and to secure the performance and observance by the Issuer of all the covenants expressed or implied herein and in the Series 2012 Bonds, does hereby irrevocably grant, bargain, sell, convey, transfer, assign and pledge unto the Trustee, and its successors in trust and assigns forever, and does hereby grant to it and them a security interest in:

#### GRANTING CLAUSE FIRST

All right, title and interest of the Issuer in and to the Revenues, as defined herein, and the present and continuing right to make claim for, collect, receive and receipt for such Revenues. The pledge of Revenues by the Issuer hereunder is a pledge of "capital fees" as defined in Chapter 18B, Article 10, Section 1c of the West Virginia Code of 1931, as amended (the "Capital Fee Act"). Provided, however, that no pledge is made hereunder of any portion of the University's auxiliary fees or any other capital fee other than as described in the definition of Revenues.

#### GRANTING CLAUSE SECOND

All moneys and securities held by the Trustee in any fund or account under this Indenture and earnings thereon, excepting only the Rebate Fund.

TO HAVE AND TO HOLD all and singular the foregoing (the "Trust Estate"), whether now owned or hereafter acquired, unto the Trustee and its respective successors in trust and assigns forever;

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth for the equal and proportionate benefit and security of all present and future holders of the Series 2012 Bonds, except as otherwise provided herein, without preference of any Series 2012 Bond over any other, and for enforcement of the payment of the Series 2012 Bonds in accordance with their terms, and all other sums payable hereunder or on the Series 2012 Bonds and for the performance of and compliance with the obligations, covenants and conditions of this Indenture,

as if all the Series 2012 Bonds at any time Outstanding had been authenticated, executed and delivered simultaneously with the execution and delivery of this Indenture, all as herein set forth;

PROVIDED, HOWEVER, that if the Issuer shall well and truly pay, or cause to be paid, the principal of and interest on, the Series 2012 Bonds at the times and in the manner mentioned in the Series 2012 Bonds according to the true intent and meaning thereof, and shall cause the payments to be made as required herein, and shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of this Indenture to be kept, performed and observed by it, and shall pay or cause to be paid to the Trustee and any Paying Agent all sums of money due or to become due in accordance with the terms and provisions hereof, then this Indenture and the rights hereby granted shall cease, determine and be void; otherwise this Indenture to be and remain in full force and effect.

## ARTICLE I

### DEFINITIONS

Section 1.01. Definitions. In addition to the words and phrases defined elsewhere herein, the following words and phrases shall have the following meanings:

"Act" means, collectively, the Issuer Enabling Act, the Enabling Act and the Capital Fee Act.

"Administrative Expenses" means those expenses of the Issuer, approved in writing by an Authorized Representative, which are properly chargeable as administrative expenses under generally accepted accounting principles and shall include, without limiting the generality of the foregoing, the following: (a) fees and expenses of the Trustee, including legal and accounting fees and annual fees, including audit fees; and (b) fees and expenses of the Issuer's professional advisors, reasonably necessary, including, without limiting the generality of the foregoing, fees and expenses of the Issuer's consultants, counsel (including Bond Counsel), financial advisors, accountants and auditors.

"Authorized Representative" means the individual or individuals designated by the Issuer, from time to time, as the person or persons to act on behalf of the Issuer. The specimen signature of the Authorized Representative shall be filed with the Trustee. Unless otherwise expressly provided herein whenever notice or direction by the Issuer to the Trustee is required or provided for herein, said notice or direction shall only be effective if given by the Authorized Representative.

"Bond Counsel" means a nationally recognized firm of lawyers experienced in matters involving the issuance of tax-exempt debt by states and their political subdivisions.

"Bond Fund" means the trust fund of that name established by Section 5.01 hereof.

"Bondholder," "Holder of Bonds," "Owner of Bonds" or any similar term means the registered owner of any Series 2012 Bond.

"Bonds" or "Series 2012 Bonds" means the bonds issued under this Indenture.

"Bond Year" means the period of twelve consecutive months ending on June 30, or the next Business Day if the 30th is not a Business Day, in any year in which Series 2012 Bonds are or will be outstanding, provided that the first Bond Year shall commence on the date of delivery of the Series 2012 Bonds upon original issuance to the purchasers thereof and shall end on the next June 30th.

"Business Day" means a day on which the principal office of the Trustee is not required or authorized to remain closed and on which the New York Stock Exchange is not closed.

"Capital Fee Act" means Chapter 18B, Article 10, Section 1c of the West Virginia Code of 1931, as amended.

"Certificate of Authentication and Registration" means the Certificate of Authentication and Registration on the Series 2012 Bonds, substantially in the form set forth herein.

"Certified Public Accountant" means an Independent certified public accounting firm which is appointed by the Issuer for the purpose of examining and reporting on or passing on questions relating to the financial statements of the Issuer, has all certifications necessary for the performance of such services and has a favorable reputation for skill and experience in performing similar services in respect of businesses of a comparable size and nature.

"Certified Resolution" means, as the context requires, one or more resolutions of the Issuer or the Commission, as applicable, certified by the respective Secretary thereof to have been duly enacted or adopted and to be in full force and effect as of the date of certification.

"Closing Date" means May \_\_, 2012.

"Code" means the Internal Revenue Code of 1986, as amended, and any applicable regulations, rulings or revenue procedures promulgated thereunder or under any predecessor thereto.

"Commission" means the West Virginia Higher Education Policy Commission.

"Costs of Issuance" shall mean those costs of issuing the Series 2012 Bonds, including, but not limited to, legal, accounting, fiscal agent fees and other fees and expenses.

"Costs of Issuance Fund" means the trust fund of that name created pursuant to Section 5.01 hereof.

"Dated Date" means May \_\_, 2012.

"Debt Service Charges" means the Principal Installment or Redemption Price and interest on the Series 2012 Bonds for any period or payable at any time, whether due on an Interest Payment Date, at maturity or upon acceleration or redemption.

"Default" and "Event of Default" means any occurrence or event specified in Section 8.01 hereof.

"Defaulted Interest" means any interest on any Series 2012 Bond which is due and payable on any Interest Payment Date, but which is not punctually paid or provided for on such Interest Payment Date.

"Defeasance Obligations" means cash, direct non-callable obligations of the United States of America and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America, to which direct obligation or guarantee the full faith and credit of the United States of America has been pledged, Refcorp interest strips, CATS, TIGRS, STRPS, or defeased municipal bonds rated AAA by S&P or Aaa by Moody's (or any combination of the foregoing).

"Enabling Act" means Chapter 18B, Article 10, Section 8 of the West Virginia Code of 1931, as amended.

"Facilities" means collectively, (1) the acquisition of land or any rights or interest in land; (2) the construction or acquisition of new buildings; (3) the renovation or construction of additions to existing buildings; (4) the acquisition of furnishings and equipment for the buildings; and (5) the construction or acquisition of any other capital improvements or capital education facilities at the University, including any roads, utilities or other properties, real or personal, or for other purposes necessary, appurtenant or incidental to the construction, acquisition, financing and placing in operation of the buildings, capital improvements or capital education facilities.

"Fiscal Year" means the period commencing July 1 and ending on June 30 of each year.

"Fitch" means Fitch Ratings, a corporation organized and existing under the laws of the State of New York, its successors and their assigns, or, if such corporation shall be dissolved or liquidated or shall no longer perform the functions of a securities rating agency, any other nationally recognized securities rating agency designated by the Issuer by notice to the Trustee.

"GAAP" means generally accepted accounting principles consistently applied.

"Governor" means the governor of the State of West Virginia.

"Indenture" means this Trust Indenture, as amended or supplemented from time to time.

"Independent" means a Person who is not a member or employee of the Issuer, or partner, officer or employee of the University.

"Interest Account" means the account of that name established within the Bond Fund, pursuant to Section 5.01 hereof.

"Interest Payment Date" means November 1 and May 1 of each year, commencing May 1, 2013 and any other date on which Debt Service Charges are otherwise due on the Series 2012 Bonds.

"Issuer" means the Board of Governors of West Liberty University and its successors.

"Issuer Certificate" means a certificate or report, in form and substance satisfactory to the Trustee, executed by the Authorized Representative.

"Issuer Enabling Act" means Chapter 18B, Article 2A of the West Virginia Code of 1931, as amended.

"Issuer Resolution" means with respect to the Series 2012 Bonds, the resolution of the Issuer adopted May 23, 2012, authorizing the issuance of the Series 2012 Bonds.

"Mandatory Redemption Date" means the dates established for the mandatory redemption of a Series 2012 pursuant to Section 3.02 hereof.

"Mandatory Redemption Requirements" means the respective amounts designated as such with respect to the Series 2012 Bonds pursuant to Section 3.02 hereof.

"Moody's" means Moody's Investor Services, Inc., a corporation organized and existing under the laws of the State of Delaware, and its successors and assigns, if such successors and assigns shall continue to perform the functions of a securities rating agency.

"Original Purchaser" means Wesbanco Bank, Inc.

"Outstanding" means, with respect to the Series 2012 Bonds, all Series 2012 Bonds issued, authenticated and delivered hereunder, other than:

(a) All Series 2012 Bonds theretofore canceled or required to be canceled pursuant to Section 2.09 hereof;

(b) Series 2012 Bonds for which provision for payment or redemption has been made in accordance with Article VII; provided that, if such Series 2012 Bonds are being redeemed, the required notice of redemption shall have been given or provision satisfactory to the Trustee shall have been made therefor; and

(c) Series 2012 Bonds in substitution for which other Series 2012 Bonds have been authenticated and delivered pursuant to Article II.

Notwithstanding the foregoing, in determining whether the Owners of the requisite principal amount of Outstanding Bonds have given any request, demand, authorization, direction, notice,



consent or waiver hereunder, Series 2012 Bonds owned by the Issuer, the University or any foundation on behalf of the University, shall be disregarded and deemed not to be Outstanding, except that in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Series 2012 Bonds which the Trustee knows to be so owned shall be disregarded. Series 2012 Bonds so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Series 2012 Bonds and that the pledgee is not the Issuer. Any Series 2012 Bonds of the type described in Section 7.01(f) hereof shall be deemed Outstanding for all purposes hereof.

"Paying Agent" means initially the Trustee or such other bank or trust company organized under the laws of any state of the United States of America or any national banking association designated as paying agent for the Series 2012 Bonds and any successor appointed in the manner provided in this Indenture.

"Permitted Investments" means the following, to the extent permitted by the laws of the State:

- (1) Cash (insured at all times by the Federal Deposit Insurance Corporation);
- (2) Obligations of, or obligations guaranteed as to principal and interest by, the United States of America or any agency or instrumentality thereof, when such obligations are backed by the full faith and credit of the United States;
- (3) Obligations of Government – Sponsored Agencies that are not backed by the full faith and credit of the U.S. Government and which are rated in the highest rating category by at least two Rating Agencies;
- (4) Certificates of deposit or time deposits of any bank (including the Trustee), trust company, savings bank or savings and loan association which certificates of deposit or time deposits are fully insured by a federally sponsored deposit insurance program;
- (5) U.S. dollar denominated deposit accounts, federal funds and bankers' acceptances with domestic commercial banks which have the highest short term rating on their short term certificates of deposit on the date of purchase as rated by at least one of the Rating Agencies and maturing not more than 360 calendar days after the date of purchase (ratings on holding companies are not considered as the rating of the bank);
- (6) Commercial paper which is rated at the time of purchase in the single highest classification by at least two of the Rating Agencies and which matures not more than 270 calendar days after the date of purchase;
- (7) Investments in a money market fund rated in the highest rating category by at least one Rating Agency;

(8) Pre-refunded Municipal Obligations defined as follows: any bonds or other obligations of any state of the United States of America or of any agency, instrumentality or local governmental unit of any such state which are not callable at the option of the obligor prior to maturity or as to which irrevocable instructions have been given by the obligor to call on the date specified in the notice; and

(A) which are rated, based on an irrevocable escrow account or fund (the “escrow”), in the highest rating category by at least one Rating Agency; or

(B) (i) which are fully secured as to principal and interest and redemption premium, if any, by an escrow consisting only of cash or obligations described in paragraph (2) above, which escrow may be applied only to the payment of such principal of and interest and redemption premium, if any, on such bonds or other obligations on the maturity date or dates thereof or the specified redemption date or dates pursuant to such irrevocable instructions, as appropriate, and (ii) which escrow is sufficient, as verified by a nationally recognized independent certified public accountant, to pay principal of and interest and redemption premium, if any, on the bonds or other obligations described in this paragraph on the maturity date or dates specified in the irrevocable instructions referred to above, as appropriate.

(9) Municipal obligations rated in the highest rating category by at least two Rating Agencies or general obligations of States or local governments with a rating in one of the top three rating categories by at least two Rating Agencies; and

(10) Collateralized Investment Agreements or Repurchase Agreements satisfying the safe harbor to the automatic stay provisions of the United States Bankruptcy Code and Forward Delivery Agreements provided by an institution with a rating in one of the top three rating categories at the time of entering into the agreement, without regard to qualifier, numerical or otherwise, as rated by at least two of the Rating Agencies.

“Person” means an individual, a corporation or any division thereof, a partnership, a limited liability company, an association, a joint stock company, a joint venture, a trust, an unincorporated organization or a government or any agency or political subdivision.

“Principal Account” means the account by that name established within the Bond Fund, pursuant to Section 5.01 hereof.

“Principal Installment” means, as of any date of calculation, so long as any Series 2012 Bonds are Outstanding, (i) the principal amount of Series 2012 Bonds due on a certain future date for which no Mandatory Redemption Requirements have been established or (ii) the unsatisfied balance of any such Mandatory Redemption Requirements due on a certain future date for Series 2012 Bonds, in a principal amount equal to said unsatisfied balance of such Mandatory Redemption Requirements.

"Principal Payment Date" means November 1 of each year, commencing November 1, 2013.

"Project Costs" means any costs associated with the design, acquisition, construction, equipping, furnishing, installation or renovation of the Series 2012 Projects, including costs associated with the acquisition of land, demolition costs, costs associated with any roads, utilities or other properties, real or personal, or other costs for purposes necessary, appurtenant or incidental to the design, acquisition, construction, equipping, furnishing, installation, renovation and placing in operation of the Series 2012 Projects.

"Project Fund" means the trust fund so designated which is described in Section 5.07.

"Rating Agency" means any of Fitch, Moody's or S&P.

"Rebate Analyst" means a certified public accountant, financial analyst or attorney, or any firm of the foregoing, or a financial institution (which may include the Trustee) experienced in making the arbitrage and rebate calculations required pursuant to Section 148 of the Code and retained by the Issuer to make the computations and give the directions required pursuant to the Tax Regulatory Agreement or to provide refunding verification services.

"Record Date" means each April 15 and October 15.

"Rebate Fund" means the Rebate Fund established pursuant to Section 5.01 hereof.

"Redemption Price" means the price at which Series 2012 Bonds are redeemed prior to the stated maturity thereof and shall include the principal thereof.

"Registrar" means WesBanco Bank, Inc.

"Regular Record Date" means, with respect to an Interest Payment Date, the close of business on the 15th day of the month next preceding such Interest Payment Date, whether or not such 15th day of the month is a Business Day.

"Revenues" means all revenues received from the 2012 Capital Fee.

"Series 2012 Projects" mean, collectively, (1) the design, construction and equipping of a new Health Science building; (2) the renovation of biology labs/classrooms and ADA compliance improvements at Arnett Hall; (3) renovation and equipping of Main Hall into areas for Business and Education expansion, as well as new programs, including Americans with Disabilities Act compliance improvements; (4) the design, construction and equipping of a new wing on the Issuer's Media Arts Center and (5) such other capital projects as may be approved by the Board of the Issuer from time to time.

"S&P" means Standard & Poor's Ratings Group, a division of The McGraw-Hill Companies, Inc., and its successors and assigns, if such successors and assigns shall continue to perform the functions of a securities rating agency.

"Special Record Date" for the payment of Defaulted Interest means the date fixed by the Trustee pursuant to Section 2.08.

"State" means the State of West Virginia.

"Tax Regulatory Agreement" means the Tax Regulatory Agreement, dated as of the date of this Indenture, between the Issuer and the Trustee, as amended or supplemented from time to time.

"Trust Estate" means the property, rights, moneys, securities and other amounts pledged and assigned to the Trustee pursuant to the Granting Clauses hereof.

"Trustee" means WesBanco Bank, Inc., until any successor trustee shall have become such pursuant to the applicable provisions of this Indenture and thereafter "Trustee" shall mean such successor Trustee hereunder.

"2012 Capital Fee" means the \$200 per semester per student E&G Capital Fee approved by the Board of Trustees of the University on May 23, 2012 and pledged to the payment of the Series 2012 Bonds.

"University" means West Liberty University, a West Virginia institution of higher education, located in West Liberty, Ohio County, West Virginia.

Section 1.02. Interpretation. Any reference herein to the Issuer or to any member, officer, employee or official thereof includes entities, officers, employees or officials succeeding to their respective functions, duties or responsibilities pursuant to or by operation of law or who are lawfully performing their functions.

Any reference to a section or provision of the Constitution of the State or the Act, or to a section, provision or chapter of the West Virginia Code of 1931, as amended, or to any statute of the United States of America, includes that section, provision or chapter as amended, modified, revised, supplemented or superseded from time to time; provided, that no amendment, modification, revision, supplement or superseding section, provision or chapter shall be applicable solely by reason of this paragraph, if it constitutes in any way an impairment of rights or obligations of the Issuer, the Holders, the Trustee, the Registrar or any Paying Agent under this Indenture, the Issuer Resolution, the Series 2012 Bonds or any other instrument or document entered into in connection with any of the foregoing, including without limitation, any alteration of the obligation to pay Debt Service Charges in the amount and manner, at the times, and from the sources provided in the Issuer Resolution and this Indenture, except as provided herein.

Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa. The terms "hereof," "hereby," "herein," "hereto," "hereunder," "hereinafter" and similar terms refer to this Indenture as a whole and not to any particular Article, Section or subdivision of this Indenture; and the term "hereafter" means after,

and the term "heretofore" means before, the date of this Indenture. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

All accounting terms not otherwise defined herein will have the meanings assigned to them in accordance with GAAP, and all computations provided for herein will be made in accordance with GAAP.

Section 1.03. Captions and Headings. The captions and headings in this Indenture are solely for convenience of reference and in no way define, limit or describe the scope or intent of any Articles, Sections, subsections, paragraphs, subparagraphs or clauses hereof.

## ARTICLE II

### AUTHORIZATION, TERMS, EXECUTION, FORM AND REGISTRATION OF SERIES 2012 BONDS

Section 2.01. Issuance of Series 2012 Bonds. There shall be issued and secured by this Indenture a series of bonds to be known and designated as "Board of Governors of West Liberty University, University Revenue Bonds, Series 2012." The aggregate principal amount of Series 2012 Bonds which may be authenticated and delivered under this Indenture is limited to \$10,000,000, except for Series 2012 Bonds authenticated and delivered upon registration of transfer of, or in exchange for, or in lieu of other Series 2012 Bonds of the same series, as provided herein. The Series 2012 Bonds shall be issued as fully registered Bonds without coupons, in denominations of not less than \$100,000 principal amount, plus any integral multiple of \$5,000 in excess thereof, numbered from R-1 upward.

The Series 2012 Bonds shall mature on November 1, 2027 in the principal amount and shall bear interest on each Interest Payment Date at the rate per annum, all as set forth below:

<u>Year of Maturity</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2019	\$4,000,000	2.00%
2023	3,000,000	2.75%
2027	3,000,000	3.25%

In the event of the occurrence of an Event of Default the interest rates on the Series 2012 Bonds shall be increased by 2.00% during such the period that an Event of Default is continuing.

Each Series 2012 Bond shall be dated as of May \_\_, 2012, and, except as otherwise provided in this Section, shall bear interest (calculated on the basis of a 360 day year of twelve 30-day months) from such date or from the most recent Interest Payment Date to which interest has been paid or duly provided for, as the case may be. Provided, however, that each Series 2012 Bond shall only bear interest on the principal amount of such Series 2012 Bond as shall have been drawn down by the Issuer and only from the date of such draw. However, the

Issuer is obligated to draw down the full principal amount of each Series 2012 Bond no later than May 31, 2013. When making a draw on the Series 2012 Bonds the Issuer shall designate which Series 2012 Bond is being drawn upon. In addition, when there is no existing default in the payment of interest on the Series 2012 Bonds, each Series 2012 authenticated after the Regular Record Date for any Interest Payment Date but prior to such Interest Payment Date shall bear interest from such Interest Payment Date; provided, however, that if and to the extent that the Issuer shall default in the payment of the interest due on any Interest Payment Date, then all such Series 2012 Bonds of the series as to which default occurred shall bear interest from the most recent Interest Payment Date to which interest has been paid or duly provided for, unless no interest has been paid on such series of Series 2012 Bonds, in which case from May \_\_, 2012.

The person in whose name any Series 2012 is registered at the Regular Record Date with respect to an Interest Payment Date shall be entitled to receive the interest payable on such Series 2012 Bond on such Interest Payment Date notwithstanding the cancellation of such Series 2012 Bond upon any registration of transfer or exchange thereof subsequent to such Regular Record Date and prior to such Interest Payment Date; provided, however, that if and to the extent the Issuer shall default in the payment of the interest due on any Interest Payment Date, such Defaulted Interest shall be paid as provided in Section 2.08.

The principal of and interest on the Series 2012 Bonds shall be payable in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts at the corporate trust office of the Trustee in Wheeling, West Virginia; provided, however, that interest on the Series 2012 Bonds shall be paid by check mailed to the person entitled thereto at his address appearing on the Bond Register, and in the case of an owner of \$1,000,000 or more of the Series 2012 Bonds, by wire transfer to a domestic bank account specified in writing to the Trustee at least five Business Days preceding such Interest Payment Date by such owner.

Section 2.02. Execution; Special Obligations. The Series 2012 Bonds shall be executed by the Governor on behalf of the State and the Chairman of the Issuer with their manual or facsimile signatures, and attested by the manual or facsimile signature of the Secretary of State and shall have impressed or imprinted thereon, by facsimile or otherwise, the Great Seal of the State. The Series 2012 Bonds are payable out of the Revenues and funds held under this Indenture, together with earnings thereon. The Series 2012 Bonds are special obligations of the Issuer and are not and shall not be deemed to be general obligations or debts of the State within the meaning of the Constitution of the State and the credit or taxing power of the State shall not be pledged therefor, but the Series 2012 Bonds shall only be payable from the Trust Estate. No Owner of any of the Series 2012 Bonds shall ever have the right to compel the exercise of the taxing power of the State to pay the Series 2012 Bonds or the interest thereon. In case any officer whose signature, or whose facsimile signature, shall appear on the Series 2012 Bonds shall cease to be such officer before the delivery of such Series 2012 Bonds, such signature, or the facsimile signature thereof, shall nevertheless be valid and sufficient for all purposes, the same as if he or she had remained in office until delivery.

Section 2.03. Authentication. No Series 2012 Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Indenture unless and until a certificate of authentication on such Series 2012 Bond substantially in the form set forth in Exhibit A shall have been duly executed by the Trustee, and such executed certificate of the

Trustee upon any such Series 2012 Bond shall be conclusive evidence that such Series 2012 Bond has been executed, authenticated and delivered under this Indenture. The Certificate of Authentication and Registration on any Series 2012 Bond shall be deemed to have been executed by the Trustee if manually signed by an authorized officer of the Trustee, but it shall not be necessary that the same officer sign the Certificate of Authentication and Registration on all of the Series 2012 Bonds issued hereunder.

Section 2.04. Form of Series 2012 Bonds. The Series 2012 Bonds issued under this Indenture shall be substantially in the form set forth on Exhibit A with such variations, omissions and insertions as are permitted or required by this Indenture and which variations, omissions or insertions do not adversely affect the rights of any Bondholder as set forth herein.

Section 2.05. Delivery of Series 2012 Bonds. Upon the execution and delivery of this Indenture, the Issuer shall execute and deliver to the Trustee and the Trustee shall authenticate the Series 2012 Bonds to be originally issued, and deliver them to the Original Purchaser thereof as directed by the Issuer.

Prior to the delivery of any of the Series 2012 Bonds, there shall be filed with the Trustee:

- (1) A Certified Resolution of the Issuer authorizing the issuance of the Series 2012 Bonds and the execution and delivery of this Indenture;
- (2) A Certified Resolution of the Commission approving the issuance of the Series 2012 Bonds;
- (3) An original executed counterpart of this Indenture;
- (4) A request and authorization to the Trustee signed by an officer of the Issuer or an Authorized Representative to authenticate the Series 2012 Bonds to be originally issued, and to deliver them to the Original Purchaser therein identified upon payment of the sums specified for deposit in the funds and accounts as set forth in Section 5.01 hereof; and
- (5) An opinion of Bond Counsel substantially to the effect that the Series 2012 Bonds constitute legal, valid and binding obligations of the Issuer, enforceable in accordance with their terms and that the interest on the Series 2012 Bonds is excludable from the gross income of the holders thereof for purposes of Federal income taxation.

Section 2.06. Mutilated, Lost, Stolen or Destroyed Series 2012 Bonds. In the event any Series 2012 Bond is mutilated, lost, stolen or destroyed, the Issuer shall execute and the Trustee shall authenticate a new Series 2012 Bond of like date, maturity and denomination as that mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Bond, such mutilated Series 2012 Bond shall first be surrendered to the Trustee for cancellation and, in the case of any lost, stolen or destroyed Bond, there shall be first furnished to the Issuer and the Trustee evidence of such loss, theft or destruction satisfactory to them, together with any indemnity satisfactory to them. In the case of a past-due or a matured, lost, stolen or destroyed

Bond, the face amount of such past-due or matured Series 2012 Bond may be paid upon delivery to the Issuer and the Trustee of evidence of such loss, theft or destruction satisfactory to them, together with any indemnity satisfactory to them. The Issuer and the Trustee may charge the Owner of such Series 2012 Bond their reasonable fees and expenses in this connection.

Any such duplicate Series 2012 Bonds issued pursuant to this Section shall constitute original, additional contractual obligations on the part of the State, whether or not the lost, stolen or destroyed Series 2012 Bonds be at any time found by any one, and such duplicate Series 2012 Bonds shall be entitled to equal and proportionate benefits and rights as to lien and source of security for payment from the revenues pledged herein with all other Series 2012 Bonds issued hereunder.

Section 2.07. Exchange of Series 2012 Bonds; Persons Treated as Owners; Transfer and Registration. The Issuer shall cause books for the registration and for the registration of transfer of the Series 2012 Bonds as provided in this Indenture to be kept by the Trustee at its designated corporate trust operations office. At reasonable times and under reasonable regulations established by the Trustee, said list may be inspected and copied by the Issuer or by a representative of the owners of not less than 50% of the aggregate principal amount of Series 2012 Bonds then outstanding.

Upon surrender for registration of transfer of any Series 2012 Bond at such office, the Trustee shall authenticate and deliver in the name of the transferee or transferees one or more new fully registered Series 2012 Bonds, if any, of authorized denomination of the same maturity and like aggregate principal amount. At the option of the Bondholder, Series 2012 Bonds may be exchanged for other Series 2012 Bonds of authorized denominations of the same series and maturity and like aggregate principal amount upon surrender at any such office. Whenever any Series 2012 Bonds are so surrendered for exchange, the Trustee shall authenticate and deliver in exchange therefor the Series 2012 Bond or Series 2012 Bonds which the Bondholder making the exchange shall be entitled to receive.

All Series 2012 Bonds presented for registration of transfer or exchange shall (if so required by the Issuer or the Trustee), be accompanied by a written instrument or instruments of transfer in form and with a guaranty of signature satisfactory to the Trustee, duly executed by the registered owner or by such owner's duly authorized attorney.

The Trustee may require payment by the person requesting an exchange or registration of transfer of Series 2012 Bonds of a sum sufficient to cover any transfer fee, tax or other governmental charge that may be imposed in relation thereto.

The Issuer and the Trustee shall not be required to issue, register the transfer of or exchange any Series 2012 Bonds during a period beginning at the Regular Record Date preceding an Interest Payment Date and ending at the close of business on the Interest Payment Date.

All Series 2012 Bonds delivered upon any registration of transfer or exchange of Series 2012 Bonds shall be valid obligations of the Issuer, evidencing the same debt and entitled to the same benefits under this Indenture as the Series 2012 Bonds surrendered.



Prior to due presentment for registration of transfer of any Bond, the Issuer and the Trustee, and any agent of the Issuer or the Trustee may treat the person in whose name any Series 2012 Bond is registered as the absolute owner thereof for all purposes (subject to Section 2.08), whether or not such Series 2012 Bond shall be overdue, and shall not be bound by any notice to the contrary.

Section 2.08. Payment of Interest; Interest Rights Preserved. Interest on any Series 2012 Bond which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the person in whose name that Series 2012 Bond (or one or more predecessor Series 2012 Bonds) is registered on the Regular Record Date for such Interest Payment Date.

Any Defaulted Interest shall forthwith cease to be payable to the registered holder on the relevant Regular Record Date by virtue of having been such holder; and such Defaulted Interest shall be paid by the Trustee to the persons in whose names the Series 2012 Bonds (or their respective predecessor Series 2012 Bonds) are registered at the close of business on a Special Record Date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Issuer shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Series 2012 Bond and the date of the proposed payment, and at the same time the Issuer shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the persons entitled to such Defaulted Interest. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Issuer of such Special Record Date and shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class, postage prepaid, to each Bondholder at his address as it appears in the Bond Register not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the persons in whose names the Series 2012 Bonds (or their respective predecessor Series 2012 Bonds) are registered on such Special Record Date.

Subject to the foregoing provisions of this Section, each Series 2012 Bond delivered under this Indenture upon transfer of or in exchange for or in lieu of any other Series 2012 Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Bond.

Section 2.09. Cancellation and Destruction of Series 2012 Bonds. Whenever any outstanding Series 2012 Bond shall be delivered to the Trustee for payment of the principal amount represented thereby or for replacement pursuant to Section 2.06 or registration of transfer or exchange pursuant to Section 2.07, such Series 2012 Bond shall, upon receipt of a written request of the Issuer, be canceled and destroyed by the Trustee and counterparts of a certificate of destruction evidencing such destruction shall be furnished to the Issuer.

## ARTICLE III

### REDEMPTION OF SERIES 2012 BONDS

Section 3.01. Limitation on Redemption. Except as provided in this Article III, the Series 2012 Bonds shall not be subject to redemption in whole or in part.

Section 3.02. Mandatory Sinking Fund Redemption of the Series 2012 Bonds.

A. The Series 2012 Bonds maturing on November 1, 2019, November 1, 2023 and November 1, 2027, shall initially be issued as term bonds, and are subject to mandatory redemption prior to maturity in part from moneys on deposit in the Bond Fund at a Redemption Price equal to 100% of the principal amount thereof, plus accrued interest to the Mandatory Redemption Date, in the years and in the annual principal amounts as follows:

Series 2012 Bond maturing November 1, 2019:

<u>Year</u> <u>(November 1)</u>	<u>Amount</u>
2013	\$ 720,000
2014	585,000
2015	595,000
2016	610,000
2017	620,000
2018	630,000
(Maturity2019)	240,000

Series 2012 Bond maturing November 1, 2023:

<u>Year</u> <u>(November 1)</u>	<u>Amount</u>
2019	\$ 405,000
2020	660,000
2021	680,000
2022	695,000
(Maturity2023)	560,000

Series 2012 Bond maturing November 1, 2027:

<u>Year</u> <u>(November 1)</u>	<u>Amount</u>
2023	\$ 155,000
2024	735,000
2025	760,000
2026	785,000
(Maturity2027)	565,000

The principal amount of the Series 2012 Term Bonds delivered to or purchased by the Trustee shall reduce by such amount the principal amount of such series of Term Bonds to be redeemed on the Mandatory Redemption Date with respect to such maturity next following such delivery or purchase.

Section 3.03. Optional Redemption of Series 2012 Bonds.

The Series 2012 Bonds are subject to optional redemption, in whole or in part, at par prior to maturity at any time upon not less than thirty (30) days prior written notice. The purchase price in the event of such optional redemption shall be equal to 100% of the principal amount thereof, plus accrued interest to the optional redemption date.

Section 3.04. Redemption Requests Relating to the Series 2012 Bonds.

Redemptions of Series 2012 Bonds permitted or required by this Article III shall be made as follows, and the Trustee shall give the notice of redemption referred to in Section 3.06 hereof in respect of each such redemption. Redemption shall be made pursuant to Section 3.02 hereof as and when required by such Section, without any further request, instruction or notice to the Trustee.

Redemption shall be made pursuant to Section 3.03 hereof upon notice by the Issuer to the Trustee in accordance with Sections 3.05, 3.06, 3.07 and 3.08 hereof.

Section 3.05. Selection of Series 2012 Bonds To Be Redeemed. In the event of redemption of less than all of the Outstanding Bonds of like maturity, the Trustee shall select the Series 2012 Bonds to be redeemed by lot, using such method of selection as it shall deem proper in its discretion. In making such selection the Trustee shall treat Series 2012 Bonds as representing that number of Series 2012 Bonds of the lowest authorized denomination as is obtained by dividing the principal amount of such Bonds by such denomination.

Section 3.06. Notice of Redemption. When redemption of Series 2012 Bonds is required by this Indenture pursuant to Section 3.03 the Trustee shall give notice, in the name of the Issuer, of the redemption of such Series 2012 Bonds. Notice of any such redemption shall be given by the Trustee by mailing a copy of the redemption notice by registered or certified mail (postage prepaid) not less than 30 nor more than 60 days prior to the date fixed for redemption to the registered owner of each Series 2012 Bond to be redeemed in whole or in part at the address shown on the Bond Register. Failure to give such notice by mailing to any Owner, or any defect therein, shall not affect the validity of any proceedings for the redemption of Series 2012 Bonds with respect to Series 2012 Bonds or portions thereof for which no failure has occurred.

All notices of redemption shall be dated and shall state (i) the redemption date; (ii) the redemption price; (iii) the identifying number (and in the case of partial redemption, the respective principal amounts) of the Series 2012 Bonds to be redeemed; (iv) the date of issuance of the Series 2012 Bonds; (v) the interest rate or rates and maturity date or dates of the Series 2012 Bonds to be redeemed; (vi) that on the redemption date the Redemption Price will become due and payable on each such Series 2012 Bond and interest thereon will cease to accrue thereon from and after said date; (vii) the agent name, contact person and address where such Series 2012 Bonds are to be surrendered for payment; and (viii) any other descriptive information that, in the opinion of the Trustee, is needed to identify accurately the Series 2012 Bonds being

redeemed. A second notice shall be sent if after 60 days from the redemption date such Series 2012 Bonds have not been surrendered for payment.

Notice of any redemption of Series 2012 Bonds shall either (i) explicitly state that the proposed redemption is conditioned on there being on deposit in the applicable fund or account on the redemption date sufficient money to pay the full redemption price of the Series 2012 Bonds to be redeemed, or (ii) be sent only if sufficient money to pay the full redemption price of the Series 2012 Bonds to be redeemed is on deposit in the applicable fund or account.

Any notice mailed as provided in this Section shall be conclusively presumed to have been duly given, whether or not the Owner of such Series 2012 Bonds receives the notice.

In addition to the foregoing notice, further notice shall be given by the Trustee as set out below, but no defect in said further notice nor any failure to give all or any portion of such further notice shall in any manner defeat the effectiveness of a call for redemption if notice thereof is given as above prescribed.

(a) Each further notice of redemption given hereunder shall contain the information required above for an official notice of redemption.

(b) Upon the payment of the Redemption Price of Bonds being redeemed, each check or other transfer of funds issued for such purpose shall identify the Series 2012 Bonds being redeemed with the proceeds of such check or other transfer.

Section 3.07. Partial Redemption of Series 2012 Bonds. Upon surrender of any Series 2012 Bond for redemption in part only, the Issuer shall execute, and the Trustee shall register, authenticate and deliver to the Owner thereof, a new Series 2012 Bond or Bonds of authorized denominations in an aggregate principal amount equal to the unredeemed portion of the Series 2012 Bond surrendered.

Section 3.08. Effect of Call for Redemption. On the date designated for redemption by notice given as herein provided, the Series 2012 Bonds so called for redemption shall become and be due and payable at the Redemption Price provided for on such date. If on the date fixed for redemption moneys for payment of the Redemption Price and accrued interest are held by the Trustee or Paying Agent as provided herein, interest on such Series 2012 Bonds so called for redemption shall cease to accrue, such Series 2012 Bonds shall cease to be entitled to any benefit or security hereunder except the right to receive payment from the moneys held by the Trustee or the Paying Agent and the amount of such Series 2012 Bonds so called for redemption shall be deemed paid and no longer Outstanding.

## ARTICLE IV

### GENERAL COVENANTS

Section 4.01. Payment of Principal and Interest. The Issuer covenants to promptly pay the principal or Redemption Price of and interest on every Series 2012 Bond issued under this Indenture at the place, on the dates and in the manner provided herein and in said Series 2012 Bonds according to the true intent and meaning thereof, provided that the such

principal or Redemption Price and interest shall be payable solely from the Revenues which are hereby pledged to the payment thereof.

Section 4.02. Performance of Covenants by Issuer. The Issuer covenants to faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in any and every Series 2012 Bond executed, authenticated and delivered hereunder and in all proceedings pertaining hereto. The Issuer covenants that it is duly authorized under the Constitution and laws of the State, including particularly the Act, to issue the Series 2012 Bonds authorized hereby and to execute this Indenture, and to pledge the amounts hereby pledged in the manner and to the extent herein set forth; that all action on its part for the issuance of the Series 2012 Bonds and for the execution and delivery of this Indenture has been duly and effectively taken, and that the Series 2012 Bonds in the hands of the owners thereof are and will be valid and enforceable obligations of the Issuer according to the terms thereof and hereof.

Section 4.03. Instruments of Further Assurance. The Issuer agrees that the Trustee may defend the Issuer's rights to the 2012 Capital Fee for the benefit of the holders of the Series 2012 Bonds, against the claims and demands of all persons whomsoever. The Issuer covenants to do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such indentures supplemental hereto and such further acts, instruments and transfers as the Trustee may reasonably require for the better assuring, transferring, pledging, assigning and confirming unto the Trustee all and singular the rights assigned hereby and the amounts pledged hereby to the payment of the principal of and interest on the Series 2012 Bonds. The Issuer covenants and agrees that, it will not sell, convey, assign, pledge, encumber or otherwise dispose of any part of the Revenues except as herein provided.

Section 4.04. Tax Covenants. The Issuer and the Trustee shall at all times do and perform all acts and things permitted by law and this Indenture which are necessary or desirable in order to assure that the interest paid on the Series 2012 Bonds (or any of them) shall not be includable in the gross income of the holders thereof for federal income tax purposes will not permit at any time or times any of the proceeds of the Series 2012 Bonds or other funds of the Issuer to be used directly or indirectly to acquire any securities or obligations, the acquisition of which would cause any of the Series 2012 Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code.

The Issuer and the Trustee jointly and severally covenant with the Owners of the Series 2012 Bonds from time to time Outstanding, that so long as any of the Series 2012 Bonds remain Outstanding, moneys held under this Indenture, whether or not such moneys were derived from the proceeds of the sale of the Series 2012 Bonds or from any other sources, will not be used in any manner which to their knowledge will cause the interest on the Series 2012 Bonds to become subject to federal income taxation. The Issuer and the Trustee reserve the right, however, to make any investment of such moneys permitted by the terms of this Indenture if, when and to the extent that the Code shall be repealed or interpreted to permit such investment or shall be held void by final judgment of a court of competent jurisdiction, but only if such investment made by virtue of such repeal, interpretation or decision would not, in the opinion of Bond Counsel, result in making the interest on the Series 2012 Bonds subject to inclusion in the gross income of the holders thereof for federal income tax purposes.

Section 4.05. Books and Records; Audited Statements. The Issuer and the Trustee covenant that all books and documents in their possession relating to all receipts and disbursements shall at all times be open to inspection by such accountants or other agencies as the other party may designate.

The Issuer will cause its financial statements to be audited by a Certified Public Accountant whose audited report shall be submitted to the Trustee and the Original Purchaser within 180 days after the end of each fiscal year of the Issuer during which Series 2012 Bonds are Outstanding, accompanied by the Issuer's Certificate to the effect that as of the end of such period, the Issuer was not in Default under the terms hereof. The Trustee shall have no obligation to analyze or make any credit decisions with respect to any financial statements or reports received by it hereunder, but shall hold, and provide to Bondholders upon request, such financial statements or reports solely as a repository for the benefit of such Bondholders.

Section 4.06. Trustee May Act For Issuer. In the event the Issuer fails (i) to make any payment required or fails to comply with, perform or carry out any of the provisions hereof, or (ii) to perform any of the terms, covenants or agreements by the Issuer to be performed under this Indenture, including, but not limited to failure to pay any advances made by the Trustee to protect the lien and security hereof as provided herein and interest on any future advances and all other items of the Series 2012 Bonds when due, then, and in any such event, the Trustee shall have the right, without notice to or demand upon the Issuer or any other Person, to make any such payment, take any such action or do any such thing as, in the exercise of the Trustee's discretion, may be determined to be reasonably necessary to protect the lien and security hereof as fully and completely as if the Issuer made each and every such payment when due, and kept, complied with, performed and carried out the provisions of this Indenture in every respect. Without limiting the generality of the foregoing, the Trustee may, in any such event, pay all or any part of any sum or sums of money that may be due or payable under the provisions hereof; and the Issuer hereby promises to pay to the Trustee, upon demand, any and all sums of money paid out or expended by the Trustee, for any of the purposes set out in this Section, all without waiver of any right arising from the breach of or default in the performance of any warranty, covenant, condition, provision or agreement herein contained; but nothing herein contained shall be construed as imposing any duty or obligation upon the Trustee to pay any such sum or sums of money herein authorized to be paid, or to take any other action authorized hereunder.

Section 4.12. Issuance of Other Obligations Payable out of Revenues and General Covenant Against Encumbrances. The Issuer shall not issue any other obligations whatsoever payable from the Revenues which rank prior to, or equally, as to lien on and source of and security for payment from such Revenues with the Series 2012 Bonds; and all obligations hereafter issued by the Issuer payable from the Revenues shall contain an express statement that such obligations are junior and subordinate as to lien on and source of and security for payment from such Revenues and in all other respects to the Series 2012 Bonds.

The Issuer shall not create, or cause or permit to be created any debt, lien, pledge, assignment, encumbrance or any other charge having priority over or being on a parity with the lien of the Series 2012 Bonds, and the interest thereon, upon any of the Revenues pledged for payment of the Series 2012 Bonds and the interest thereon in this Indenture.

## ARTICLE V

### DEPOSIT OF BOND PROCEEDS; FUNDS AND ACCOUNTS; REVENUES

Section 5.01. Creation of Funds and Accounts. There are hereby created by the Issuer and ordered established, the following trust funds and trust accounts to be held by the Trustee:

- (a) Costs of Issuance Fund;
- (b) Bond Fund, which shall contain the following accounts:
  - (i) the Interest Account; and
  - (ii) the Principal Account;
- (c) Project Fund; and
- (d) Rebate Fund.

Notwithstanding the foregoing, the Trustee shall not be required to open any Fund or account until such Fund or account is required to be funded.

#### Section 5.02. Deposit of Bond Proceeds; Drawing of Bond Proceeds.

\$75,000 of the proceeds from the sale of the Series 2012 Bonds shall be deposited on the Closing Date by the Trustee into the Costs of Issuance Fund. The remaining principal amount shall be drawn upon the written request of the Issuer to the Original Purchaser with a copy to the Trustee. Amounts drawn from the sale of the Series 2012 Bonds after the Closing Date shall be deposited by the Trustee into the Project Fund. Amounts drawn down by the Issuer shall first be drawn against the undrawn principal amount of the Series 2012 Bond maturing November 1, 2019, then next against the undrawn principal amount of the Series 2012 Bond maturing November 1, 2023 and finally against the undrawn principal amount of the Series 2012 Bond maturing November 1, 2027. However, the Issuer is obligated to draw down the full principal amount of each Series 2012 Bond no later than May 31, 2013.

#### Section 5.03. Costs of Issuance Fund.

(a) The proceeds of the Series 2012 Bonds deposited in the Costs of Issuance Fund shall be used and withdrawn by the Trustee only as provided in this Section 5.03. No amount in any other fund or account created by this Indenture shall be expended for Costs of Issuance.

(b) The Trustee is authorized and directed to make disbursements from the Costs of Issuance Fund upon the written direction of an Authorized Representative for the payment of Costs of Issuance, in the amounts stated to be due and payable in such written direction, which shall be filed with the Trustee from time to time, together with such other documentation as may be required hereunder, certifying that such amounts may be properly paid.

The Trustee shall make such disbursements not later than five (5) days after receipt of all the documentation required by this Section 5.03(b).

(c) Notwithstanding any provision to the contrary, any amounts remaining in the Costs of Issuance Fund on September 1, 2012 shall be transferred to the Project Fund.

Section 5.04. Required Deposits of Revenues.

(a) The Issuer is solely responsible for collection of Revenues and agrees to deposit or cause to be deposited with the Trustee such Revenues as are sufficient to enable the Trustee to make the deposits described below in Section 5.04(b).

(b) If no Event of Default has occurred and is continuing, moneys received by the Trustee from the Issuer shall be applied by the Trustee not later than the twenty-fifth day of each month preceding an Interest Payment Date or Principal Payment Date, as applicable, in the following manner in the order of priority indicated:

FIRST, for deposit in the Interest Account of the Bond Fund, an amount equal to the Debt Service Charges for interest coming due on such Interest Payment Date (less any amount then on deposit in the Interest Account and available for such payment);

SECOND, for deposit in the Principal Account of the Bond Fund, an amount equal to the Debt Service Charges for the Principal Installment or Redemption Price coming due on such Principal Payment Date (less any amount then on deposit in the Principal Account and available for such payment); and

THIRD, for deposit in the Bond Fund, an amount or amounts necessary to pay Administrative Expenses.

Section 5.05. The Bond Fund.

(a) There shall be deposited to the credit of the Bond Fund (i) moneys required to be deposited in the Bond Fund pursuant to Sections 5.03(c) or 5.04(b) hereof, and (ii) any other moneys required hereunder to be transferred thereto or for which no other designation as to a fund or account has been made. Subject to such priorities of application as are established herein, moneys on deposit in the Bond Fund shall be used to pay Debt Service Charges when due at maturity, upon prior redemption, prepayment or acceleration, or otherwise.

(b) Income from the investment of moneys on deposit in the Interest Account shall be deposited in such account.

Section 5.06. Series 2012 Bonds Not Presented for Payment. In the event any Series 2012 Bonds shall not be presented for payment when the principal thereof becomes due, either at maturity or at the date fixed for redemption or prepayment thereof or the acceleration of maturity, if moneys sufficient to pay such Series 2012 Bonds are held by the Trustee, the Trustee shall segregate and hold such moneys in trust, without liability for interest thereon, for the benefit of the Holders of such Series 2012 Bonds who shall, except as provided in the following



paragraph, thereafter be restricted exclusively to such fund or funds for the satisfaction of any claim of whatever nature on their part under this Indenture or relating to said Series 2012 Bonds.

Any moneys which the Trustee shall segregate and hold in trust for the payment of the Debt Service Charges on any Series 2012 Bond and which remain unclaimed for two years after such Debt Service Charges have become due and payable shall be paid to the Issuer upon receipt by the Trustee of a written request from an Authorized Representative. After the payment of such unclaimed moneys to the Issuer, the Holder of any such Series 2012 Bond shall thereafter look only to the Issuer for the payment thereof, and all liability of the Issuer and the Trustee with respect to such moneys shall thereupon cease.

Section 5.07. Project Fund. The Project Fund shall be used for the payment of Project Costs. The Project Fund shall consist of the amounts required or permitted to be deposited therein pursuant to any provision hereof, and the proceeds of the Series 2012 Bonds shall be deposited therein in the amount set forth above. Separate accounts within the Project Fund shall be maintained by the Trustee for future capital acquisitions and improvements if the Issuer determines that separate accounts are desirable with respect to particular capital acquisitions and improvements or designated portions of capital acquisitions and improvements. Payments from the Project Fund, including any account so established, shall be made by the Trustee as follows:

(a) Payments from the Project Fund shall be made only upon receipt by the Trustee of a requisition executed by the Authorized Representative of the University in the form attached hereto as Exhibit B.

(b) Upon completion of the Series 2012 Projects (as evidenced by a certificate of the University delivered to the Trustee), any moneys remaining in the Project Fund shall be transferred to the Bond Fund and used to pay debt service on the Series 2012 Bonds on the next Interest Payment Date, unless the University directs that such moneys be applied to any other use, accompanied in such case by an opinion of Bond Counsel to the effect that such application will not adversely affect any applicable exemption from federal income taxation of the interest on the Series 2012 Bonds.

(c) Notwithstanding anything to the contrary herein, to the extent an Event of Default described in clause (a) or (b) of Section 8.01 shall have occurred and be continuing and no other moneys are available under this Indenture to cure such Event of Default, no moneys on deposit in the Project Fund shall be applied in accordance with Section 5.07(b). In such event, moneys on deposit in the Project Fund shall be applied by the Trustee in accordance with Article VIII.

#### Section 5.08. Rebate Fund.

(a) The Rebate Fund shall be separate from any other fund established and maintained hereunder or under any laws governing the creation and use of funds by the Issuer. There shall be deposited in the Rebate Fund such amounts as are required to be deposited therein pursuant to the Tax Regulatory Agreement. Subject to the transfer provisions provided in paragraph (e) below, all money at any time deposited in the Rebate Fund shall be held by the Trustee in trust, to the extent required to satisfy the Rebate Amount (as defined in the Tax Regulatory Agreement), for payment to the federal government of the United States of America, and neither the Issuer nor the Holder of any Series 2012 Bonds shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section, and by the Tax Regulatory Agreement (which is incorporated herein by reference).

(b) Notwithstanding any other provisions herein, the Trustee shall deposit amounts to the Rebate Fund from deposits by the Issuer or from amounts available for such purpose held in the Bond Fund, if and to the extent required, when stipulated pursuant to the Tax Regulatory Agreement. Computations of the Rebate Amount shall be furnished to the Trustee in accordance with the Tax Regulatory Agreement.

(c) The Trustee shall have no obligations to rebate any amounts required to be rebated pursuant to this Section, other than from moneys held in the funds and accounts created under this Indenture or from other moneys provided to it by the Issuer.

(d) The Trustee shall invest all amounts, if any, held in the Rebate Fund in Permitted Investments in writing as directed by the Issuer and subject to the restrictions set forth in the Tax Regulatory Agreement.

(e) The Trustee shall remit part or all of the balances in the Rebate Fund to the United States. At the direction of the Issuer, any funds remaining in the Rebate Fund after redemption and payment of all of the Series 2012 Bonds and payment and satisfaction of any Rebate Amount, or provision made therefor satisfactory to the Trustee shall be withdrawn and remitted to the Borrower.

(f) Notwithstanding any other provision of this Indenture, the obligation to remit the Rebate Amounts to the United States and to comply with all other requirements of this Section and the Tax Regulatory Agreement shall survive the defeasance or payment in full of the Series 2012 Bonds.

Section 5.09. Moneys Held in Trust. Except where moneys have been deposited with or paid to the Trustee pursuant to an instrument restricting their application to particular Series 2012 Bonds, all moneys required or permitted to be deposited with or paid to the Trustee or any Paying Agent under any provision of this Indenture and to be used to pay Debt Service Charges and any investments thereof, shall be held by the Trustee or that Paying Agent in trust. Except (i) for moneys deposited with or paid to the Trustee or any Paying Agent for the redemption of Series 2012 Bonds, notice of the redemption of which shall have been duly given and (ii) for moneys held by the Trustee pursuant to Section 5.06 hereof, and (iii) for moneys held

in the Rebate Fund, all moneys described in the preceding sentence held by the Trustee or any Paying Agent shall be subject to the lien hereof while so held.

Section 5.10. Payment to the Issuer After the right, title and interest of the Trustee in and to the Trust Estate and all covenants, agreements and other obligations of the Issuer to the Holders shall have ceased, terminated and become void and shall have been satisfied and discharged in accordance with Article VIII hereof, and amounts due and owing to the United States of America pursuant to Section 5.08 hereof and all fees, expenses and other amounts payable to the Issuer, the Trustee, the Registrar, any Authenticating Agent, any Paying Agent and the Rebate Analyst, pursuant to any provision hereof shall have been paid in full, any moneys remaining in any fund or account held under this Indenture (other than moneys held for the payment of Debt Service Charges) shall be paid to the Issuer, except as otherwise provided in Section 5.09 hereof.

## ARTICLE VI

### RESERVED

## ARTICLE VI

### INVESTMENT OF MONEYS

Section 6.01. Investment of Moneys. Except as otherwise provided in this Indenture, any moneys held as a part of the funds and accounts created pursuant to this Indenture shall be invested or reinvested by the Trustee at the written direction of the Issuer, confirmed by an Issuer's Certificate, in any Permitted Investments; provided, however, that, in the absence of any direction from the Issuer, the Trustee shall keep such funds invested in Defeasance Obligations.

Except as otherwise specifically provided herein, any such investment shall be held by or under the control of the Trustee and shall be deemed at all times a part of the fund in which such moneys were originally held. Any loss resulting from such investments shall be charged to such fund. Any interest or other gain from any fund from any investment or reinvestment shall, except as otherwise provided herein, remain in such fund.

The Trustee shall value the investments held for any fund at the lower of cost or then current market, or at the redemption price thereof if then redeemable at the option of the owner, including the value of accrued interest and giving effect to the amortization of discount. The Trustee shall sell at the best price reasonably obtainable and reduce to cash a sufficient amount of such investments whenever the cash balance in any fund is insufficient to make the payments required from such fund regardless of the loss on such liquidation. The Trustee may make any and all investments permitted by this Section 6.01 through its own bond department.

In making investments of the moneys held hereunder the Trustee may rely on the written direction of the Issuer as sufficient evidence that such investment is made in accordance with this Indenture and applicable law, and shall not be liable for any investments made in

violation of the covenant as to arbitrage contained herein or otherwise, if made pursuant to such direction.

All investments shall be valued as of the end of each Bond Year and on such other dates as required by the term of this Indenture. Although the Issuer recognizes that it may obtain a broker's confirmation or written statement containing comparable information at no additional cost, the Issuer agrees the confirmation of Permitted Investments are not required to be issued by the Trustee for each month in which a monthly statement is rendered; provided that no such statement need be rendered for any account if no activity occurred in such accounting during such month.

## ARTICLE VII

### DISCHARGE OF INDENTURE

Section 7.01. Discharge of Indenture. (a) If the Issuer shall pay or cause to be paid, or there shall be otherwise paid, to or for the holders of the Series 2012 Bonds, the Debt Service Charges due or to become due thereon at the times and in the manner stipulated therein from the funds and accounts established hereunder as a part of the Trust Estate, and shall pay or cause to be paid to the Trustee all sums of money due or to become due according to the provisions hereof, then these presents and the estate and rights hereby granted shall cease, determine and void, whereupon the Trustee shall cancel and discharge the lien of this Indenture and execute and deliver to the Issuer such instruments in writing as shall be requisite to cancel and discharge the lien hereof, and release, assign and deliver unto the Issuer, any and all of the estate, right, title and interest in and to any and all rights assigned or pledged to the Trustee or otherwise subject to the lien of this Indenture, except moneys or securities held by the Trustee for the payment of the principal of and interest on the Series 2012 Bonds.

(b) All Series 2012 Bonds shall have become due and payable in accordance with their terms at their stated maturity or otherwise as provided in this Indenture or have been duly called for redemption, and either (i) the whole amount of the principal and interest so due and payable upon all of the Series 2012 Bonds (other than Series 2012 Bonds theretofore canceled or delivered to the Trustee for cancellation) shall have been paid or (ii) there shall have been deposited with the Trustee Defeasance Obligations which are noncallable prior to the stated maturity thereof and having stated maturities arranged so that the principal or redemption price of and interest becoming due and payable on such Defeasance Obligations will under any and all circumstances (and without further investment or reinvestment of either the principal amount thereof or the interest earned thereon) be sufficient (as confirmed by a Certified Public Accountant or Rebate Analyst) to pay and discharge the entire indebtedness of each Bond, not theretofore delivered to the Trustee for cancellation, or Debt Service Charges to the stated maturity or redemption date or dates, as the case may be, thereof.

(c) If all Series 2012 Bonds have not become due and payable, the Issuer has delivered to the Trustee a ruling of the Internal Revenue Service or an opinion of Bond Counsel to the effect that the operation of this Section 7.01 would not cause interest on the Series 2012 Bonds to become includable in the gross income of the Owners thereof for federal income tax purposes or cause the Series 2012 Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code.

(d) If the date of satisfaction and discharge of this Indenture is more than six months prior to the stated maturity date of the Series 2012 Bonds, and redemption of the Series 2012 Bonds is then required by the Issuer, arrangements, satisfactory to the Trustee, shall have been made for the giving of notice of redemption of the Series 2012 Bonds on the date selected for redemption.

(e) The Issuer has delivered to the Trustee an Issuer's Certificate and an opinion of Bond Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Indenture have been complied with.

(f) The obligation of the Issuer to pay the fees and expenses of the Trustee, and to indemnify the Trustee, shall survive defeasance of the Series 2012 Bonds.

## ARTICLE VIII

### DEFAULT PROVISIONS AND REMEDIES OF TRUSTEE AND BONDHOLDERS

Section 8.01. Defaults; Events of Default. If any of the following events occur, it is hereby defined as and declared to be and constitute an "Event of Default":

(a) default by the Issuer in the due and punctual payment of any interest on any Bond;

(b) default by the Issuer in the due and punctual payment of any Principal Installment;

(c) upon the expiration of the period for filing a responsive pleading, in the event any proceeding is instituted in a court of competent jurisdiction which may adversely affect the lien of the Owners upon the Revenues unless (i) a responsive pleading has been filed on behalf of the Issuer contesting the bona fides of such proceeding or (ii) the Issuer causes an opinion of counsel (which counsel must be reasonably satisfactory to the Trustee) to be delivered to the Trustee to the effect such proceeding is without merit; or

(d) default in the performance of observance of any other of the covenants, agreements or conditions on the part of the Issuer contained in this Indenture or in the Series 2012 Bonds and failure to remedy the same after notice thereto pursuant to Section 8.10.

Section 8.02. Rights and Remedies of Trustee. Upon the occurrence of an Event of Default the Trustee may pursue any available remedy at law or in equity to enforce the payment of the principal of and interest on the Series 2012 Bonds then Outstanding, including, but not limited to, a proceeding in mandamus to enforce any rights on behalf of the Owners or the appointment of a receiver for the protection of the Owners.

If an Event of Default shall have occurred, and if requested to do so by the Owners of no less than 25% of the Bonds Outstanding and indemnified as provided in Section 9.01(l) hereof, the Trustee shall be obligated to exercise one or more of the rights and powers

conferred by this Article, as the Trustee, being advised by counsel, shall deem most expedient in the interests of the Owners.

The Trustee shall have the right to compel an immediate accounting with respect to the Revenues in the event the Revenues are not transferred to the Trustee in accordance with the terms hereof.

No remedy by the terms of this Indenture conferred upon or reserved to the Trustee (or to the Owners) is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Owners hereunder or now or hereafter existing at law or in equity or by statute.

No delay or omission to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default or acquiescence therein; and every such right and power may be exercised from time to time as often as may be deemed expedient.

No waiver of any default or Event of Default hereunder, whether by the Trustee or by the Owners, shall extend to or shall affect any subsequent default or Event of Default or shall impair any rights or remedies consequent thereon.

Section 8.03. Right of Owners to Direct Proceedings. Anything in this Indenture to the contrary notwithstanding, the Owners of a majority of the Bonds Outstanding shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the method and place of conducting all proceedings to be taken by the Trustee in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder; provided that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture.

In the event the Trustee receives conflicting instructions from the Owners of the Series 2012 Bonds, the Trustee shall follow the instructions of the holders of the greatest principal amount of Series 2012 Bonds if the greatest principal amount is at least 25% of the Bonds Outstanding.

Section 8.04. Appointment of Receiver. Upon the occurrence of an Event of Default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Owners under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate (and to the extent then permitted by law, of the Facilities), and of the Revenues, pending such proceedings, with such powers as the court making such appointment shall confer.

The receiver so appointed shall forthwith, directly or by his or her or its agents and attorneys, enter into and upon and take possession of all the Facilities and shall hold, operate and maintain, manage and control such Facilities, and each and every part thereof, and in the name of the Issuer exercise all the rights and powers of the Issuer with respect to said Facilities as the Issuer itself might do.

Whenever all Debt Service Charges then due shall have been paid and made good, and all defaults under the provisions of this Indenture shall have been cured and made good, possession of the Facilities shall be surrendered to the Issuer upon the entry of an order of the court to that effect. Upon any subsequent default, the Trustee shall have the same right to secure the further appointment of a receiver upon any such subsequent default.

Such receiver, in the performance of the powers hereinabove conferred upon him or her or it, shall be under the direction and supervision of the court making such appointment, shall at all times be subject to the orders and decrees of such court and may be removed thereby, and a successor receiver may be appointed in the discretion of such court. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any function not specifically set forth herein.

Such receiver shall have no power to sell, assign, mortgage or otherwise dispose of any assets of any kind or character belonging or pertaining to the Facilities, but the authority of such receiver shall be limited to the possession, operation and maintenance of the Facilities, for the sole purpose of the protection of both the Issuer and Owners, and the curing and making good of any default under the provisions of this Indenture, and the title to and ownership of said Facilities shall remain in the Issuer, and no court shall have any jurisdiction to enter any order or decree permitting or requiring such receiver to sell, mortgage, or otherwise dispose of any assets of the Facilities.

Section 8.05. Application of Moneys. All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall, after payment of the costs and expenses of the proceedings resulting in the collection of such moneys and of the expenses, fees, liabilities and advances, including counsel fees, incurred or made by the Trustee, be deposited in the Bond Fund and all moneys in the Bond Fund shall be applied as follows:

(a) Unless the principal of all the Series 2012 Bonds shall have become due and payable, all such moneys shall be applied:

FIRST -- to the payment to the persons entitled thereto of all interest then due on the Series 2012 Bonds, in the order of the due dates of such interest and, if the amount available shall not be sufficient to pay in full said amount, then to the payment ratably, according to the amounts due to the persons entitled thereto, without any discrimination or privilege;

SECOND -- to the payment to the persons entitled thereto of the unpaid principal of any of the Series 2012 Bonds which shall have become due (other than the Series 2012 Bonds matured for the payment of which moneys are held pursuant to the provisions of this Indenture), in the order of their due dates, with interest on such Series 2012 Bonds from the respective dates upon which they became due at the rates borne by the Series 2012 Bonds and, if the amount available shall not be sufficient to pay in full Series 2012 Bonds due on any particular date, together with such interest, then to the payment ratably, according to the amount of principal due on such date, to the persons entitled thereto without any discrimination or privilege; and

THIRD -- to be held for the payment to the persons entitled thereto as the same shall become due of the principal of and interest on the Series 2012 Bonds which may thereafter become due at maturity and, if the amount available shall not be sufficient to pay in full Series 2012 Bonds due on any particular date, together with interest then due and owing thereon, payment shall be made ratably according to the amount of principal due on such date to the persons entitled thereto without any discrimination or privilege.

(b) If the principal of all the Series 2012 Bonds shall have become due, all such moneys shall be applied to the payment of the principal and interest then due and unpaid upon the Series 2012 Bonds, without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Series 2012 Bond over any other Series 2012 Bond, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or privilege.

Section 8.06. Remedies Vested in the Trustee. All rights of action (including the right to file proof of claims) under this Indenture or under any of the Series 2012 Bonds may be enforced by the Trustee without the possession of any of the Series 2012 Bonds or the production thereof in any trial or other proceeding related thereto and any such suit or proceeding instituted by the Trustee shall be brought in its name as the Trustee without the necessity of joining as plaintiffs or defendants any holder of the Series 2012 Bonds, and any recovery of judgment shall be for the equal and ratable benefit of the holders of the outstanding Series 2012 Bonds.

Section 8.07. Rights and Remedies of Bondholders. No Owner of any Series 2012 Bond shall have any right to institute any suit, action or proceeding at law or in equity for the enforcement of this Indenture or for the execution of any trust hereof or for the appointment of a receiver or any other remedy hereunder, unless (1) a default has occurred of which the Trustee has been notified as provided in Section 9.01(h) hereof, or of which by said subsection it is deemed to have received notice, (2) such default shall have become an Event of Default and the Owners of not less than 25% of the Bonds Outstanding shall have made written notice to the Trustee and shall have offered it reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in their own name or names, (3) they have offered to the Trustee indemnity as provided in Section 9.01(l) hereof, and (4) the Trustee shall thereafter fail or refuse to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding in its own name; and such notification, request and offer of indemnity are hereby declared in every case at the option of the Trustee to be conditions precedent to the execution of the powers and for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder; it being understood and intended that no one or more Owners of the Series 2012 Bonds shall, solely by virtue of being such Owner, have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture by its, his or their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal and ratable benefit to the Owners of all Series 2012 Bonds then outstanding. However, nothing contained in this Indenture shall affect or impair the right of any Owners to enforce the payment of the principal of and interest on any Series 2012 Bond at and after the maturity thereof, or the obligation of the Issuer to pay the principal of and interest on each of the Series 2012 Bonds issued hereunder to the respective Owners thereof at the time, place, from the sources and in the manner in the Series 2012 Bonds expressed.



Section 8.08. Termination of Proceedings. In the case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the Issuer, the Trustee and the Owners shall be restored to their former positions and rights hereunder, respectively, with regard to the property herein subject to this Indenture, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

Section 8.09. Waivers of Events of Default. The Trustee may at its discretion waive any Event of Default hereunder and its consequences, and shall do so upon the written request of the Owners of (1) more than two-thirds of the Bonds Outstanding in respect of which default in the payment of principal or interest, or both, exists, or (2) more than 50% of the Bonds Outstanding in the case of any other default; provided, however, that there shall not be waived (a) any Event of Default in the payment of the principal of any outstanding Series 2012 Bonds at the date of maturity specified therein, or (b) any default in the payment when due of the interest on any such Series 2012 Bonds unless, prior to such waiver or rescission, all arrears of interest or all arrears of payments of principal when due, as the case may be, with interest on overdue principal at the rate borne by the Series 2012 Bonds, and all expenses of the Trustee in connection with such default shall have been paid or provided for, and in case of any such waiver or rescission, or in case any proceedings taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case the Issuer, the Trustee and the Owners shall be restored to their former positions and rights hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon.

Section 8.10. Notice of Defaults Under Section 8.01(d); Opportunity of Issuer to Cure Such Defaults. Anything herein to the contrary notwithstanding, no default under Section 8.01(d) shall constitute an Event of Default until actual notice of such default by first class mail (postage prepaid) shall be given to the Issuer by the Trustee or by the Owners of not less than 25% of the Series 2012 Bonds Outstanding and the Issuer shall have had 60 days after receipt of such notice to correct said default or cause said default to be corrected, and shall not have corrected said default or cause said default to be corrected, and shall not have corrected said default or caused said default to be corrected within the applicable period; provided, however, if said default be such that it cannot be corrected within the applicable period, it shall not constitute an Event of Default if corrective action is instituted by the Issuer within the applicable period and diligently pursued until the default is corrected.

Section 8.11. Acceleration and Annulment Thereof.

(a) Upon the occurrence of an Event of Default specified in Section 8.01 hereof, and at any time thereafter while such Event of Default shall continue in each and every case, unless the principal of all the Series 2012 Bonds shall already have become due and payable, the Trustee may and, upon written request of the Owners of 25% of aggregate principal amount of the Series 2012 Bonds then Outstanding shall declare the principal of all the Series 2012 Bonds then Outstanding, and the interest accrued thereon, to be due and payable immediately, and upon any such declaration the same shall become and be immediately due and payable, anything in this Indenture or in any of the Series 2012 Bonds contained and to the contrary notwithstanding.

(b) The provisions of the preceding paragraph however, are subject, to the condition that if, after the principal of the Series 2012 Bonds has been so declared to be due and payable, all arrears of interest upon the Series 2012 Bonds (and interest on overdue installments of interest at the maximum rate permitted by law or 2% over the interest rate on the respective Series 2012 Bonds, whichever is less) are paid by or on behalf of the Issuer, and no Event of Default or event which, with the passage of time or the giving of notice, or both, would constitute an Event of Default, is continuing hereunder, and the Issuer also performs all other things in respect to which the Issuer may have been in default hereunder and pays the reasonable charges of the Trustee and the Owners, including reasonable attorneys fees, then, and in every such case, the Trustee may annul such declaration and its consequences and such annulment shall be binding upon the Trustee and upon all Owners of Series 2012 Bonds issued hereunder; but no such annulment shall extend to or affect any subsequent default or impair any right or remedy consequent thereon.

## ARTICLE IX

### THE TRUSTEE

Section 9.01. Acceptance of the Trusts. The Trustee hereby accepts the trusts imposed upon it by this Indenture and agrees to perform said trusts, but only upon and subject to the following express terms and conditions to all of which the Issuer agrees and the respective Bondholders agree by their acceptance of any of the Series 2012 Bonds:

(a) The Trustee, prior to the occurrence of an Event of Default and after the curing of all events of default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. In case an Event of Default has occurred (which has not been cured or waived), the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in its exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

(b) The Trustee may execute any of the trusts or powers hereof and perform any of its duties by or through attorneys, agents, receivers or employees but shall be answerable for the conduct of the same in accordance with the standard specified above, and shall be entitled to advice of counsel concerning all matters of trusts hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such attorneys, agents, receivers and employees as may reasonably be employed in connection with the trusts hereof. The Trustee may act upon the opinion or advice of any attorneys (who may be the attorney or attorneys for the Issuer), approved by the Trustee in the exercise of reasonable care. The Trustee shall not be responsible for any loss or damage resulting from any action or nonaction in good faith in reliance upon such opinion or advice.

(c) The Trustee shall not be responsible for any recital herein, or in the Series 2012 Bonds, or for the validity of the execution by the Issuer of this Indenture or of any supplements hereto or instruments of further assurance, or for the sufficiency of the security for the Series 2012 Bonds issued hereunder or intended to be secured hereby.

(d) The Trustee shall not be accountable for the use of any Series 2012 Bonds authenticated or delivered hereunder. The Trustee may become the owner of Series 2012 Bonds secured hereby with the same rights which it would have if not the Trustee.

(e) Except with respect to the matters covered in Section 11.01 hereof, the Trustee shall be protected in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram, or other paper or document believed to be genuine and correct and to have been signed or sent by the proper person or persons. The Trustee shall not withhold unreasonably its consent, approval or action to any reasonable request to the Issuer. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of any person who at the time of making such request or giving such authority or consent is the owner of any Bond, shall be conclusive and binding upon all future owners of the same Series 2012 Bond and upon Series 2012 Bonds issued in exchange therefor or in place thereof.

(f) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely upon a certificate signed by the Authorized Representative of the Issuer as sufficient evidence of the facts therein contained and prior to the occurrence of a default of which the Trustee has been notified as provided in subsection (h) of this Section, or of which by said subsection it is deemed to have notice, shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may, at its discretion, secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same.

(g) The permissive right of the Trustee to do things enumerated in this Indenture shall be construed as a duty and it shall not be answerable for other than its gross negligence or willful misconduct.

(h) The Trustee shall not be required to take notice or be deemed to have notice of any default hereunder except failure by the Issuer to cause to be made any of the payments to the Trustee required to be made by Article V or the failure of the Issuer to file with the Trustee any document required by this Indenture to be so filed subsequent to the issuance of the Series 2012 Bonds, unless the Trustee shall be specifically notified in writing of such default by the Issuer or by the owners of at least 25% of the Series 2012 Bonds Outstanding and all notices or other instruments required by this Indenture to be delivered to the Trustee must, in order to be effective, be delivered at the principal office of the Trustee, and, in the absence of such notice so delivered, the Trustee may conclusively assume there is no default except as aforesaid.

(i) At any and all reasonable times, the Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right fully to inspect any and all of the property herein conveyed, including all books, papers, and records of the Issuer pertaining to the revenues and receipts of the Facilities and the Series 2012 Bonds, and to take such memoranda from and in regard thereto as may be desired.

(j) The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

(k) Notwithstanding anything elsewhere in this Indenture contained, the Trustee shall have the right, but shall not be required, to demand, in respect of the authentication of any Series 2012 Bonds, the withdrawal of such any cash, or any action whatsoever within purview of this Indenture, any showings, certificates, opinions, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required as a condition of such action by the Trustee deemed desirable for the purpose of establishing the right of the Issuer to the authentication of any Series 2012 Bonds, the withdrawal of any cash or the taking of any other action by the Trustee.

(l) Before taking the action referred to in Section 8.02 or 8.07 hereof, the Trustee may require that a satisfactory indemnity bond be furnished for the reimbursement of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from its gross negligence or willful default by reason of any action so taken.

(m) All moneys received by the Trustee or any Paying Agent shall, until used or applied or invested as herein provided, be held in trust for the purposes for which they were received but need not be segregated from other funds except to the extent required by law. Neither the Trustee nor any Paying Agent shall be under any liability for interest on any moneys received hereunder except such as may be agreed upon.

Section 9.02. Fees, Charges and Expenses of Trustee. The Trustee shall be entitled to payment and reimbursement for reasonable fees for its services rendered hereunder and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by the Trustee in connection with such services solely from moneys available therefor. Upon an Event of Default, but only upon an Event of Default, the Trustee shall have a first lien with right of payment prior to payment on account of principal of and interest on any Series 2012 Bond upon the Trust Estate for the foregoing fees, charges and expenses incurred by it.

Section 9.03. Notice to Owners in the Event of Default or Certain Other Occurrences. If a default occurs of which the Trustee is by Section 9.01(h) required to take notice or if notice of default be given as in Section 9.01(h) provided, then the Trustee shall promptly give written notice thereof by registered or certified mail to the Owners of all Series 2012 Bonds then Outstanding shown on the registration books of the Issuer kept at the office of the Trustee.

Section 9.04. Intervention by Trustee. In any judicial proceeding concerning the issuance of the payment of the Series 2012 Bonds to which the Issuer is a party and which in the opinion of the Trustee has a substantial bearing on the interests of Owners of the Series 2012 Bonds, the Trustee may intervene on behalf of Owners and shall do so if requested in writing by the owners of at least 25% of the Series 2012 Bonds Outstanding and being provided a bond as described in Section 9.01(l) hereof.

Section 9.05. Successor Trustee. Any corporation or association into which the Trustee may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, ipso facto shall be and become successor Trustee hereunder and

vested with all of the title to the Trust Estate and all the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

Section 9.06. Resignation by Trustee. The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving 90 days' written notice by registered or certified mail to the Issuer and by first class mail (postage prepaid) Owners of each Series 2012 Bond, and such resignation shall take effect upon the appointment of a successor Trustee by the Owners or by the Issuer. The Issuer hereby agrees to make a reasonable effort to appoint such a successor Trustee within a reasonable period of time. If the Issuer fails to appoint a successor Trustee within a reasonable period of time, the Trustee may apply to a court of competent jurisdiction to appoint a successor Trustee.

Section 9.07. Removal of Trustee. The Trustee may be removed at any time by an instrument or concurrent instruments in writing delivered to the Trustee and to the Issuer signed by the Owners of a majority in aggregate principal amount of the Series 2012 Bonds Outstanding.

Section 9.08. Appointment of Successor Trustee by the Bondholders; Temporary Trustee. In case the Trustee hereunder shall resign or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by a court, a successor may be appointed by the Owners of a majority in aggregate principal amount of the Series 2012 Bonds Outstanding, by an instrument or concurrent instruments in writing signed by such Owners, or by their attorneys in fact, duly authorized and a copy of which shall be delivered personally or sent by registered mail to the Issuer. Nevertheless, in case of such vacancy, the Issuer may appoint a temporary Trustee to fill such vacancy until a successor trustee shall be appointed by the Owners in the manner above provided; and any such temporary Trustee so appointed by the Issuer shall immediately and without further act be superseded by the Trustee so appointed by the Owners. Notice of the appointment of a successor trustee shall be given in the same manner as provided in Section 9.06 with respect to the resignation of a Trustee. Every such Trustee appointed pursuant to the provisions of this Section shall be a trust company or bank in good standing, which has combined capital, surplus and undivided profits of not less than \$50,000,000. No resignation or removal of the Trustee, Paying Agent or Bond Registrar shall become effective until a successor has been appointed and has accepted the duties of Trustee, Paying Agent or Bond Registrar and the appointment of any successor thereto.

Section 9.09. Concerning Any Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its or his predecessor and also to the Issuer, an instrument in writing accepting such appointment hereunder and thereupon such successor, without any further act, deed or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessors; but such predecessors shall, nevertheless, on the written request of the Issuer, execute and deliver an instrument transferring to such successor Trustee all the estates, properties, rights, powers and trusts of such predecessor hereunder and every predecessor Trustee shall deliver all securities and moneys held by it as Trustee hereunder to its or his successor, less the reasonable fees owed and legally due to the Trustee. Should any instrument in writing from the Issuer be required by a

successor Trustee for more fully and certainly vesting in such successor the estate, rights, powers and duties hereby vested or intended to be vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer. The resignation of any Trustee and the instrument or instruments removing any Trustee and appointing a successor hereunder, together with all other instruments provided for in this Article, shall be filed or recorded by the successor Trustee in each recording office where this Indenture shall have been filed or recorded, if any.

Section 9.10. Designation and Succession of Paying Agent. The Issuer at all times shall employ one or more Paying Agents for the Series 2012 Bonds. Initially, the Issuer hereby appoints the Trustee as Paying Agent. Any bank or trust company with or into which any Paying Agent may be merged or consolidated, or to which the assets or business of such Paying Agent may be sold, shall be deemed the successor of such Paying Agent for the purposes of this Indenture. If the position of Paying Agent shall become vacant for any reason, the Issuer shall, within 30 days thereafter, appoint a bank or trust company as such Paying Agent to fill such vacancy; provided, however, that if the Issuer shall fail to appoint such Paying Agent within said period, the Trustee shall make such appointment. Other Paying Agents may be appointed pursuant to Article IX hereof by the Issuer if in its discretion additional Paying Agents are deemed advisable.

The Paying Agent shall enjoy the same protective provisions in the performance of their duties hereunder as are specified in Section 9.01 hereof with respect to the Trustee insofar as such provisions may be applicable.

Notice of the appointment of additional Paying Agents shall be given in the same manner as provided in Section 9.08 hereof with respect to the appointment of a successor Trustee.

Section 9.11. Appointment of Co-Trustee. It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the laws of the State) denying or restricting the right of banking corporations or associations to transact business as Trustee in such jurisdiction. It is recognized that, in case of litigation under this Indenture and, in particular, in case of the enforcement hereof on default, or in case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Trustee or hold title to the properties, in trust, as herein granted, or taken any other action which may be desirable or necessary in connection therewith, it may be necessary that the Trustee appoint an additional individual or institution as a separate Co-Trustee. The following provisions of this Section are adopted to these ends.

In the event that the Trustee appoints an additional individual or institution as a separate Co-Trustee, each and every remedy, power, right, claim, demand, cause of action, immunity, estate, title, interest and lien expressed or intended by this Indenture to be exercised by or vested in or conveyed to the Trustee with respect thereto shall be exercisable by and vest in such separate Co-Trustee but only to the extent necessary to enable such separate or Co-Trustee to exercise such powers, rights, and remedies, and every covenant and obligation necessary to the exercise thereof by such separate or Co-Trustee shall run to and be enforceable by either of them.

Should any instrument in writing from the Issuer be required by the separate or Co-Trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to him or it such properties, rights, powers, trusts, duties and obligations, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer. In case any separate or Co-Trustee or a successor to either shall die, become incapable of acting, resign or be removed, all the estates, properties, rights, powers, trusts, duties and obligations of such separate or Co-Trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a new Trustee or successor to such separate or Co-Trustee.

## ARTICLE X

### SUPPLEMENTAL TRUST INDENTURES

Section 10.01. Supplemental Trust Indentures Not Requiring Consent of Bondholders. The Issuer and the Trustee may, without the consent of, or notice to, any of the Bondholders enter into an indenture or indentures supplemental to this Indenture as shall not be inconsistent with the terms and provisions hereof for any one or more of the following purposes:

- (a) to cure any ambiguity or defective provision or omission to this Indenture;
- (b) to grant to or confer upon the Trustee for the benefit of the Bondholders any additional benefits, rights, remedies, powers or authorities that may lawfully be granted to or conferred upon the Bondholders or the Trustee, or to make any change which, in the judgment of the Trustee (which may rely upon an opinion of Bond Counsel), is not to the prejudice of the Bondholders;
- (c) to subject to this Indenture additional revenue, properties or collateral as may be reasonably required, including, any other amounts which the Issuer may legally pledge to support debt obligations;
- (d) to comply with the provisions of the Code, as now or hereafter amended, and any applicable court decisions, if such amendment, in the opinion of Bond Counsel, will insure that the tax-exempt status of interest on the Series 2012 Bonds is not impaired;
- (e) to modify, amend or supplement this Indenture or any indenture supplemental hereto in such manner as to permit the qualification hereof and thereof under the Trust Indenture Act of 1939 or any similar federal statute hereafter in effect or to permit the qualification of the Series 2012 Bonds for sale under the securities laws of any of the states of the United States of America, and, if they so determine, to add to this Indenture or any indenture supplemental hereto such other terms, conditions and provisions as may be permitted by said Trust Indenture Act of 1939 or similar federal statute; or
- (f) to evidence the appointment of a separate or Co-Trustee or the succession of a new Trustee or Paying Agent hereunder.

Section 10.02. Supplemental Trust Indentures Requiring Consent of Bondholders. Subject to the terms and provisions contained in this Section, and not otherwise, the holder of not less than two-thirds of any series of Outstanding Bonds shall have the right,

from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to and approve the execution by the Issuer and the Trustee of such other indenture or indentures supplemental hereto as shall be deemed necessary and desirable by the Trustee for the purpose of modifying, altering, amending adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any supplemental indenture relating to the Series 2012 Bonds; provided, however, that nothing contained in this Section shall permit, or be construed as permitting, without the consent of the holders of all Outstanding Bonds of any series, (a) an extension of the maturity date of the principal of or the interest on any Bond, or (b) a reduction in the principal amount of any Series 2012 Bond or the rate of interest thereon, or (c) a privilege or priority of any Series 2012 Bond or over any other Series 2012 Bonds, or (d) the creation of any lien other than a lien ratably securing all of the Outstanding Bonds at any time, or (e) any modification of the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of the Trustee without the written consent of the Trustee.

If at any time the Issuer shall request the Trustee to enter into any such supplemental indenture for any of the purposes of this Section, the Trustee shall, upon being satisfactorily indemnified with respect to expenses, cause notice of the proposed execution of such supplemental indenture to be mailed by registered or certified mail to each owner of a Series 2012 Bond effected thereby. Such notices shall briefly set forth the nature of the proposed supplemental indenture and shall state that copies thereof are on file at the principal office of the Trustee for inspection by all Bondholders of series effected thereby. If, within 60 days or such longer period as shall be prescribed by the Issuer following the mailing of such notice, the holders of not less than two-thirds of the Bonds Outstanding of a series effected thereby at the time of the execution of any such supplemental indenture shall have consented to and approved the execution thereof as herein provided, no holder of any Series 2012 Bond of such series shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Issuer from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such supplemental indenture as permitted and provided for in this Section and the delivery to the Trustee of an opinion of Bond Counsel that such supplemental indenture is in compliance with the provisions hereof, this Indenture shall be and be deemed to be modified and amended in accordance herewith.

## ARTICLE XI

### MISCELLANEOUS

Section 11.01. Consents, Etc. of Bondholders. Any consent, request, direction, approval, objection or other instrument required by this Indenture to be signed and executed by the Bondholders may be in any number of counterparts and may be signed or executed by such Bondholders in person or by an agent appointed in writing. Proof of the execution of any such consent, request, direction, approval, objection or other instrument or of the writing appointing any such agent and or the ownership of, if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee and any Paying Agent with regard to any action taken by it under such request or other instrument, namely:



(a) the fact and date of the execution by any person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such writing acknowledged before him the execution thereof, or by an affidavit of any witness to such execution; or

(b) the fact of ownership of Series 2012 Bonds and the amount or amounts, numbers and other identification of Series 2012 Bonds, and the date of holding the same shall be proved by the registration books of the Issuer maintained by the Trustee pursuant to Section 2.07 hereof.

Section 11.02. Severability. If any provision of this Indenture shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative or unenforceable to any extent whatever.

Section 11.03. Notices. Any notice, request, complaint, demand, communication or other paper shall be sufficiently given and shall be deemed given when delivered or mailed by registered or certified mail, postage prepaid, or sent by telegram, addressed to the appropriate address. The Issuer and the Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communication shall be sent.

if to the Issuer: Board of Governors of West Liberty University  
West Liberty University  
109 Campus Service Center  
P.O. Box 295  
West Liberty, West Virginia 26074  
Attention: Chief Financial Officer

if to the Trustee: WesBanco Bank, Inc.  
1 Bank Plaza  
Wheeling, West Virginia 26003  
Attention: Corporate Trust Department

Section 11.04. Payments due on Non-Business Days. In any case where the date of maturity of interest on or principal of any Series 2012 Bonds shall be a non-Business Day, then payment of interest or principal may be made on the succeeding Business Day with the same force and effect as if made on the date of maturity.

Section 11.05. Counterparts. This Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 11.06. Applicable Provisions of Law. This Indenture shall be governed by and construed in accordance with the laws of the State.

Section 11.07. Captions. The captions or headings in this Indenture are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Indenture.

Section 11.08. Parties Interested Herein. Nothing in this Indenture expressed or implied is intended or shall be construed to confer upon, or to give to, any person or entity, other than the Issuer, the insurer, if any, of any Series 2012 Bonds issued hereunder, the Trustee, the Paying Agent, and the Bondholder, any right, remedy or claim under or by reason of this Indenture or any covenant, condition or stipulation hereof, and all covenants, stipulations, promises and agreements in this Indenture contained by and on behalf of the Issuer shall be for the sole and exclusive benefit of the Issuer, the insurer, if any, of any Series 2012 Bonds issued hereunder, the Trustee, the Paying Agent, and the registered owners of the Series 2012 Bonds.

IN WITNESS WHEREOF, the Issuer has executed this Indenture, and the Trustee, to evidence its acceptance of the trusts created hereunder, has caused this Indenture to be executed in its name by its duly authorized officers and duly attested, all as of the day and year first above written.

BOARD OF GOVERNORS OF WEST LIBERTY  
UNIVERSITY

By: \_\_\_\_\_  
Its: Chairman

Attest:

By: \_\_\_\_\_  
Its: Secretary

WESBANCO BANK, INC., as Trustee

By: \_\_\_\_\_  
Its: \_\_\_\_\_

Attest:

By: \_\_\_\_\_  
Its: Authorized Representative

THIS DOCUMENT WAS PREPARED BY:  
Fred Williams, Esquire  
Steptoe & Johnson PLLC  
P. O. Box 1588  
Charleston, West Virginia 25326-1588.

**EXHIBIT A**  
**FORM OF SERIES 2012 BOND**

UNITED STATES OF AMERICA  
STATE OF WEST VIRGINIA  
BOARD OF GOVERNORS OF WEST LIBERTY UNIVERSITY  
UNIVERSITY REVENUE BONDS, SERIES 2012

No. \_\_\_\_\_ \$ \_\_\_\_\_

INTEREST  
RATE

MATURITY  
DATE

BOND  
DATE

\_\_\_\_\_%

\_\_\_\_\_

\_\_\_\_\_

REGISTERED OWNER:     Wesbanco Bank, Inc.

PRINCIPAL AMOUNT:     \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: That the Board of Governors of West Liberty University (the "Board"), a body corporate and politic, constituting a public corporation and a governmental instrumentality of the State of West Virginia (the "State"), on behalf of the State, for value received, hereby promises to pay, solely from the special funds provided therefor, as hereinafter set forth, to the Registered Owner set forth above, on the Maturity Date set forth above, the Principal Amount set forth above and solely from such special funds also to pay interest on said sum from the Bond Date, set forth above, at the Interest Rate set forth above semiannually, on May 1 and November 1 of each year, beginning May 1, 2013, both principal of and interest on this Series 2012 Bond being payable in any coin or currency which, on the respective dates of payment of principal and interest, is legal tender for the payment of public and private debts under the laws of the United States of America. Provided, however, that each Series 2012 Bond shall only bear interest on the principal amount of such Series 2012 Bond as shall have been drawn down by the Issuer and only from the date of such draw. In the event of the occurrence of an Event of Default the interest rate on this Series 2012 Bonds shall be increased by 2.00% during such the period that an Event of Default is continuing.

Interest accruing on this Series 2012 Bond on and prior to the Maturity Date hereof shall be payable by check or draft mailed by WesBanco Bank, Inc., Wheeling, West Virginia, as paying agent (in such capacity, the "Paying Agent"), to the Registered Owner hereof as of the applicable Record Date (each April 15 and October 15) at the address of such Registered Owner as it appears on the registration books of the Board maintained by WesBanco Bank, Inc., Wheeling, West Virginia, as registrar (in such capacity, the "Registrar"), or, at the option of any Registered Owner of at least \$1,000,000 in aggregate principal amount of Series

2012 Bonds, by wire transfer in immediately available funds to the bank account number on file with the Paying Agent on or prior to the applicable Record Date. Principal shall be paid when due upon presentation and surrender of this Series 2012 Bond for payment at the designated corporate trust operations office of the Paying Agent, in Wheeling, West Virginia.

This bond is one of a series of bonds (the "Series 2012 Bonds"), in the aggregate principal amount of \$10,000,000, of like date and of like tenor and effect, except as to number, date of maturity and interest rate, issued to finance certain capital expenditures relating to assets of the University and to provide for the payment of the costs relating to the issuance of the Series 2012 Bonds, all under the authority of and in full compliance with the Constitution and statutes of the State of West Virginia, including particularly Chapter 18B, Articles 1, 2 and 10 of the West Virginia Code of 1931, as amended (the "Act"), a resolution duly adopted by the Board on May 23, 2012 and a resolution duly adopted by the West Virginia Higher Education Policy Commission on May \_\_, 2012 (collectively, the "Resolution"), and a Trust Indenture, dated as of May 1, 2012 (the "Indenture") between the Board and WesBanco Bank, Inc., Wheeling, West Virginia (in such capacity, the "Trustee"), and is subject to all the terms and conditions of said Resolution and Indenture.

The Series 2012 Bonds are subject to mandatory redemption prior to maturity in part from moneys on deposit in the Bond Fund at a Redemption Price equal to 100% of the principal amount thereof, plus accrued interest to the Mandatory Redemption Date, in the years and in the annual principal amounts as follows:

Series 2012 Bond maturing November 1, 2019:

<u>Year</u> <u>(November 1)</u>	<u>Amount</u>
2013	\$ 720,000
2014	585,000
2015	595,000
2016	610,000
2017	620,000
2018	630,000
(Maturity2019)	240,000

Series 2012 Bond maturing November 1, 2023:

<u>Year</u> <u>(November 1)</u>	<u>Amount</u>
2019	\$ 405,000
2020	660,000
2021	680,000
2022	695,000
(Maturity2023)	560,000

Series 2012 Bond maturing November 1, 2027:

<u>Year</u> <u>(November 1)</u>	<u>Amount</u>
2023	\$ 155,000
2024	735,000
2025	760,000
2026	785,000
(Maturity 2027)	565,000

The principal amount of the Term Bonds of a certain maturity delivered to or purchased by the Trustee shall reduce pro tanto the principal amount of such Term Bonds to be redeemed on the Mandatory Redemption Date with respect to such maturity next following such delivery or purchase.

The Series 2012 Bonds are also subject to optional redemption prior to maturity, at any time at the option of the Issuer, in whole or in part, on any Business Day, in order of maturity selected by the Issuer and by lot within a maturity in multiples of \$5,000, at a Redemption Price equal to 100% of the principal amount thereof, plus accrued interest to the date fixed for redemption.

The Series 2012 Bonds are secured by and payable from the Revenues, as defined in the Indenture which includes revenues from the 2012 Capital Fees, as defined in the Indenture, and certain funds held under the Indenture. Said revenues shall be sufficient to pay the principal of and interest on all bonds which may be issued pursuant to the Act and shall be set aside as a special fund hereby pledged for such purpose. This bond does not constitute an indebtedness of the Board within any constitutional or statutory provision or limitation, nor shall the Board be obligated to pay the same or the interest hereon except from said special fund provided from the revenues from the operation of the Facilities. Prior to the issuance of the Series 2012 Bonds the Board has fixed and established the 2012 Capital Fee.

THIS BOND IS A SPECIAL OBLIGATION OF THE BOARD, PAYABLE SOLELY FROM THE SOURCES PLEDGED UNDER THE INDENTURE. THE SERIES 2012 BONDS OF WHICH THIS BOND IS ONE, AS TO BOTH PRINCIPAL AND INTEREST, SHALL NOT CONSTITUTE A DEBT OR A PLEDGE OF THE FAITH AND CREDIT OR TAXING POWER OF THE STATE OF WEST VIRGINIA, AND THE OWNERS THEREOF SHALL HAVE NO RIGHT TO HAVE TAXES LEVIED BY THE LEGISLATURE FOR THE PAYMENT OF THE PRINCIPAL THEREOF OR INTEREST THEREON, BUT THE SERIES 2012 BONDS SHALL BE PAYABLE EQUALLY AND RATABLY SOLELY FROM THE SOURCES PLEDGED UNDER THE INDENTURE.

This bond is transferable, as provided in the Indenture, only upon the books of the Registrar, which shall be kept for that purpose at the office of the Registrar, by the Registered Owner or by its attorney or legal representative duly authorized in writing, upon surrender of this Bond, together with a written instrument of transfer satisfactory to the Registrar, duly executed by the Registered Owner or its duly authorized attorney or legal representative duly authorized in writing.

The holder of this bond shall have no right to enforce the provisions of the Indenture or to institute an action to enforce the covenants thereof, or to take any action with respect to a default hereof, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture.

No additional bonds may be issued under the Indenture.

Modifications or amendments of the Indenture may be made to the extent and in the circumstances permitted by the Indenture to which reference is hereby made.

This bond must be registered in accordance with the provisions hereof, and may, singly or with other Series 2012 Bonds, be surrendered to the Registrar and exchanged for other fully registered bonds, upon the terms set forth in the Indenture. Neither the Board nor the Registrar shall be required to register or transfer this bond or exchange other Series 2012 Bonds for this bond during the period beginning on a Record Date and ending on an Interest Payment Date.

Subject to registration requirements, this bond under the provision of the Act is and has all the qualities and incidents of a negotiable instrument under the Uniform Commercial Code of the State of West Virginia.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this bond have existed, have happened and have been performed in due time, form and manner as required by law, and that the amount of this bond, together with all other obligations of said Board, does not exceed any limit prescribed by the Constitution or statutes of the State of West Virginia, and that the 2012 Capital Fee has been pledged to and will be set aside into said special fund by said Board for the prompt payment of the principal of and interest on the Series 2012 Bonds.

All provisions of the Resolution, the Indenture and statutes under which this Bond is issued shall be deemed to be a part of the contract evidenced by this Bond to the same extent as if written fully herein.

IN WITNESS WHEREOF, the State has caused this Bond to be signed by its Governor and the Board by the Chairman thereof, under the Great Seal of the State attested by the Secretary of State, all as of the Bond Date.

STATE OF WEST VIRGINIA

[SEAL]

By: \_\_\_\_\_  
Governor

BOARD OF GOVERNORS OF WEST LIBERTY  
UNIVERSITY

By: \_\_\_\_\_  
Chairman

ATTEST:

By: \_\_\_\_\_  
Secretary of State



CERTIFICATE OF AUTHENTICATION AND REGISTRATION

This Bond is one of the Board of Governors of West Liberty University, University Revenue Bonds, Series 2012, described in the within-mentioned Resolution and Indenture and has been duly registered in the name of the Registered Owner set forth above on the date set forth below.

Date: \_\_\_\_\_

WESBANCO BANK, INC.

By:  
Its Authorized Officer

## ASSIGNMENT

FOR VALUE RECEIVED the undersigned hereby sells, assigns and transfers unto , the within Bond and does hereby irrevocably constitute and appoint , attorney, to transfer the within Bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated:

PLEASE INSERT SOCIAL SECURITY OR  
OTHER IDENTIFYING NUMBER OF  
ASSIGNEE

NOTICE: The signature to this  
assignment must correspond with the name  
as it appears upon the face of the within  
Bond in every particular, without alteration  
or any change whatsoever.

SIGNATURE GUARANTEE

Signatures must be guaranteed by an  
“eligible guarantor institution” meeting the  
requirements of the Bond Trustee, which  
requirements include membership or  
participation in the Securities Transfer  
Association Medallion Program (STAMP)  
or such other “signature guaranty program”  
determined to be acceptable by the Bond  
Trustee in addition to or in substitution for  
STAMP, all in accordance with the  
Securities Exchange Act of 1934, as  
amended.

The following abbreviations, when used in the inscription on the face of this  
Bond, shall be construed as though they were written out in full according to the applicable laws  
or regulations:

TEN COM -- as tenants  
in common

UTMA.....Custodian.....  
(Cust) (Minor)

TEN ENT -- as tenants  
by the entireties

JT TEN -- as joint tenants  
with right of survivorship  
and not as tenants in common

under Uniform Transfers to  
Minors Act.....  
(State)

Other abbreviations may also be used.

## **EXHIBIT B**

### **FORM OF REQUISITION FROM PROJECT FUND**

STATEMENT NO. \_\_ REQUESTING DISBURSEMENT OF FUNDS FROM THE PROJECT FUND PURSUANT TO SECTION 5.07 OF THE BOND INDENTURE DATED MAY 1, 2012 BETWEEN THE BOARD OF GOVERNORS OF WEST LIBERTY UNIVERSITY (THE "BOARD") AND AND WESBANCO BANK, INC.

Pursuant to Section 5.07 of the Bond Trust Indenture (the "Bond Indenture") dated as of May 1, 2012 between the Issuer and WesBanco Bank, Inc. (the "Bond Trustee") pursuant to which the Issuer issued \$10,000,000 principal amount of University Revenue Bonds, Series 2012 (the "Series 2012 Bonds"), the undersigned Authorized Borrower Representative hereby requests and authorizes, the Bond Trustee, as depository of the Project Fund created by the Indenture, to pay to the persons listed on the Disbursement Schedule attached hereto out of the moneys deposited in the Project Fund the aggregate sum of \$\_\_\_\_\_ for Project Costs incurred with respect to the Series 2012 Projects financed with the proceeds of the Series 2012 Bonds.

In connection with the foregoing request and authorization, the undersigned hereby certifies that:

(a) Each item for which disbursement is requested hereunder is properly payable out of the Project Fund in accordance with the terms and conditions of the Bond Indenture and none of those items has formed the basis for any disbursement heretofore made from the Project Fund;

(b) Each such item relates to a Project Cost as defined in the Indenture and is represented by an attached invoice or other written proof of payment;

(c) This statement and all exhibits hereto, including the Disbursement Schedule, shall be conclusive evidence of the facts and statements set forth herein and shall constitute full warrant, protection and authority to the Trustee for its actions taken pursuant hereto; and

(d) This statement constitutes the approval of the Board of each disbursement hereby requested and authorized.

*[signature page to follow]*

IN WITNESS WHEREOF, the Authorized Borrower Representative has set his hand as of the \_\_ day of \_\_\_\_\_, 2012.

UNIVERSITY BOARD OF GOVERNORS OF WEST LIBERTY

\_\_\_\_\_  
By: \_\_\_\_\_  
Authorized Borrower Representative

## DISBURSEMENT SCHEDULE

<u>Cost</u>	<u>Firm</u>
1	1
2	1
3	1
4	1
5	1
6	1
7	1
8	1
9	1
10	1
11	1
12	1
13	1
14	1
15	1
16	1
17	1
18	1
19	1
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82	1
83	1
84	1
85	1
86	1
87	1
88	1
89	1
90	1
91	1
92	1
93	1
94	1
95	1
96	1
97	1
98	1
99	1
100	1

**Total Costs:** \$

## TRUST INDENTURE

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